AN

EXPOSITION OF THE LAWS

WHICH RELATE TO THE

MEDICAL PROFESSION

IN ENGLAND;

CONTAINING A BRIEF ACCOUNT OF THE VARIOUS

ORDINANCES, CHARTERS, AND ACTS OF PARLIAMENT,

UNDER WHICH THE

Practice of Medicine in England

HAS BEEN GOVERNED FROM THE EARLIEST PERIOD OF ITS HISTORY DOWN TO THE PRESENT TIME.

WITH

AN APPENDIX,

CONTAINING

AN AMPLE ANALYSIS OF SIR JAMES GRAHAM'S BILL

FOR THE BETTER REGULATION OF MEDICAL PRACTICE THROUGHOUT THE UNITED KINGDOM.

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TO

THE RIGHT HONOURABLE

SIR JAMES GRAHAM, BART., M.P.,

ETC., ETC., ETC.,

HER MAJESTY'S SECRETARY OF STATE

FOR

The Home Department,

THIS LITTLE WORK IS DEDICATED, AS A HUMBLE TRIBUTE OF THANKS

FOR HIS ENDEAVOUR TO REFORM THE LAWS WHICH

RELATE TO THE MEDICAL PROFESSION,

BY HIS VERY OBEDIENT SERVANT,

THE AUTHOR.

Hertford, October 4th, 1841.

PREFACE.

At the present juncture, when Government is intending to bring about some essential alterations in the Laws which regulate the Practice of Medicine, the Author thought that it might be interesting to Medical Men in general, as well as to the Members of the Legislature, to be made acquainted with the nature of the various Charters and Acts of Parliament proposed to be repealed, or altered.

The comparative advantages derived from the present Laws, and those that would be likely to accrue from Sir James Graham's Bill, cannot, of course, be properly estimated without a knowledge of both.

Some part of the "Exposition," as far as relates to the Colleges of Physicians and Surgeons, appeared about two years ago, in the *Lancet*, in a series of Letters, signed "SCRUTATOR." The *facts* there published, stand the same still; but all those facts, as well as the remarks founded upon them,

have been re-considered and revised for the present Work. Moreover, the new Charter, lately granted to the College of Surgeons, having materially changed the position of that Institution in relation to its members, has rendered it necessary to view the subject in a different light from that in which it was looked upon at that period.

The history of the origin and progress of the Apothecaries is particularly interesting at the present moment. It should be specially studied in relation to the new measure proposed by Government.

The Author has endeavoured to give an ample and impartial Analysis of Sir James Graham's Bill. The *arguments* adduced are merely set forward for the consideration of the Reader: they do not proceed in the slightest degree from any dictatorial feeling. The great object in view by Medical Men of all denominations, must be to see their Profession prosper, and its character stand well with society.

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EXPOSITION OF THE LAWS,

ETC.

THE COLLEGE OF PHYSICIANS.

The charter of incorporation of the College of Physicians bears date September 23rd, in the tenth year of the reign of Henry the Eighth (1519). There were some Acts of Parliament passed before that period for the punishment of unqualified practitioners, both male and female. The first of which we know anything is that of the 9th of Henry V. This Act imposes a penalty of £40, and "long "imprisonment," on any one who practises physic without Letters Testimonial from one of the two English universities in which he had taken his degree; and the sheriffs of England were to give notice to all those who practised within their several jurisdictions that they might resort to either of the universities, at which they would be examined, and, if approved, admitted to their degree, &c. This Act continued in force *legally*, if not *practically*, until the 3rd of Henry VIII.

The Act of 3rd Henry VIII. is important in one respect especially, namely, inasmuch as it declares the "science and cunning of physic and surgery "(to the perfect knowledge whereof be requisite "both great learning and ripe experience)" to be one and the same. The two departments, according to common sense, ought never to have been

separated in *principle*, whatever they might be in *practice.*

This Act ordains "that no person within the "City of London, nor within seven miles of the "same, take upon him to exercise and occupy as a "physician or surgeon, except he be first examined, "approved, and admitted by the Bishop of London, "or by the Dean of St. Paul's, for the time being, "*calling to him or them four doctors of physic ; or, for "surgery, other expert persons in that faculty,*" under the penalty of £5 for every month of so exercising and occupying.

The second clause applies a similar provision, and the same penalty, to all the dioceses of England, the bishop of each diocese, or his vicar-general, "calling to them such expert persons in the said "faculties," &c. The Act is in no way to affect the privileges of the two Universities of Oxford and Cambridge.

According to the period at which this Act was passed, it is, perhaps, as good as any that could have been devised ; for the bishop was bound to call to his aid persons the most distinguished in the two faculties of physic and surgery, who, of course, were the actual examiners.

Seven years after the passing of the last-mentioned Act, Henry granted a charter to Linacre and five other physicans, incorporating them into a *College. There is no record of any Charter or Act of Parliament prior to this that went to bind together any number of medical practitioners in this country into a separate body politic.* The charter confers upon the body the name and title of "President "and College or Community of the Faculty of Physic "in London."* It gives them the power of holding

* "Et quod ipsi per nomina præsidentis et collegii seu communitatis facultatis medicinæ Lond. placitare et implacitari possint coram quibuseunque judicibus in curiis et actionibus quibuscunque."

meetings and of making rules and regulations for the salutary government, superintendence, and correction of the college or community, and of all persons of the same faculty in the said city, or within the circuit of seven miles of the same.

From the tenor of the following passage in the charter, there is reason to believe that all the *legally-qualified* physicians practising in London, or within seven miles of the same, were comprehended in that document:—"Collegium perpetuum doctorum "et gravium virorum, qui medicinam in urbe nostra "Londino et suburbis, intra septem millia passuum "ab ea urbe quaqua versus publice exerceant insti-"tuti volumus atque imperamus."

As there has been a good deal of cavilling about this part of the charter, and claims founded upon it set up for the *fellowship* of the college, it may not be amiss to make one or two remarks upon the subject.

It would be absurd to suppose that the charter contemplated ignorant or unqualified practitioners to be taken in at the formation of the college, because the very object of the establishment of that college or community was to discountenance and punish such persons. Who, then, were the persons, "qui medicinam in urbe nostra Londino et subur-"bis exerceant"? The answer must be, of course, those who had *complied with the law* as it stood *before* the granting of the charter; namely graduates of the two English universities, *and* those others who had been "examined, approved, and admitted "by the Bishop of London, or by the Dean of St. "Paul's, having called to him or them four doctors "of physic," according to the 3rd of Henry VIII. Having been thus constituted of *legally-qualified* physicians, the college became the *ruling power* of the faculty, authorised to hold lawful meetings,

and to make rules and regulations for the government, superintendence, and correction of the college or community aforesaid, *and of all men of the same faculty in the aforesaid city, or within a circuit of seven miles round the same*,—" et omnium hominum " eandem facultatem in dicta civitate, seu per septem " milliaria in circuitu ejusdem," &c.

It does not follow because the college has the power given to it to make rules and regulations for its *own* government, and for the government of " *all men of the same faculty*," &c., that therefore all men of the same faculty, that is, all those subsequently qualified under the charter to *practise* physic, should necessarily become a part of the *governing body* of that college. Certainly, neither the charter nor the subsequent Act of Parliament (14 and 15 Henry VIII.) gives them any such claim. I speak, at present, only of what the law is: whether it would be better or worse if it were otherwise, is another question. According to this charter, any one who exercises the faculty of medicine in the city of London, or within seven miles round the same, without being first admitted by the president and college, by Letters Testimonial, sealed with the common seal of the college, renders himself liable to a penalty of £5 for every month for which he continues to exercise the same.*

It has been contended that the term " *admissus* " *sit*" in the charter, indicates that it was contemplated that all those who proved themselves qualified for practice on examination, should be admitted

* " Concessimus etiam eisdem presidenti et collegio seu communitati, et successoribus suis, quod nemo in dicta civitate, aut per septem milliaria in circuitu ejusdem exerceat dictam facultatem, nisi ad hoc per dictam presidentem et communitatem, seu successores eorum, qui pro tempore fuerint, admissus sit per ejusdem presidentis et collegii literas sigillo suo communi sigillatas, sub pœna centum solidorum pro quolibet mense, quo non admissus eandem facultatem exercuit," &c.

as a part of the *ruling body* of the college. It does not necessarily follow that such should be the intention of the charter, for the terms "examined, "approved, and *admitted*," are alike used in the Act of 3rd Henry VIII., wherein the bishop or the dean is the nominal examiner. The term merely implies that those who obtained Letters Testimonial of examination, were legally entitled to exercise the faculty of medicine to the extent of the jurisdiction of the college under the charter, namely, in the city of London, and within seven miles round the same.

As a royal charter cannot supersede an Act of Parliament, and as the Act of 14th and 15th Henry VIII., for confirming the college charter, did not pass until four years after the grant of that charter, there is no doubt that the bishops, in their respective dioceses, still possessed the legal right of granting Letters Testimonial to practitioners; that is, during the intervening four years. Indeed, there is no proof that the newly-constituted college exercised any of the privileges nominally granted to it, until it obtained an Act of Parliament for their confirmation. This fact furnishes a remarkable instance of the influence of Parliament over the power of the Crown, even at that early period, and also under a sovereign not easily intimidated.

There is, likewise, reason to believe that the number of *legally-qualified* physicians practising in London at the time of the establishment of the college, was very small, although, probably, the irregular ones and the empirics were numerous enough. We shall find hereafter that the number of surgeons about that period practising in the metropolis did not exceed a dozen. With regard to the newly established college, the small number of qualified persons existing at that time in London

will account for the smallness of the ruling body during several years afterwards; because the first code of bye-laws would be likely to be adhered to for many years unchanged, especially as, probably, the pressure for admission into the college was not very great at that early period. About the year 1647, we find that the number of fellows was not to exceed thirty: it is now one hundred and fifty.

It will have been noticed that the charter gave the new college *no jurisdiction whatever beyond seven miles round London.* Beyond that limit, in all the provinces, the bishops still possessed the power of licensing physicians in their several dioceses; indeed, no one could practise "throughout Eng-"land" without their license, except graduates of Oxford or Cambridge. But in the Session of 14th and 15th year of Henry the Eighth's reign, an end was put to the whole power of the priesthood over our profession.

The Act of 14th and 15th Henry VIII, is a most important one, and it is that which has regulated the proceedings of the college down to the present time.

This Act of Parliament was granted upon the petition of the six persons originally named in the charter, and it is from the tenor of the Act that we infer that the Letters Patent had not been put into operation up to this period, that is, a period of four years after the charter had been granted. Its first enactment goes to confirm, in every part, the grants, articles, and other things contained in the charter; that is, it gives the college the full control over the profession in London, and within seven miles round the same. The second section creates a new power, for the purpose of putting the wheels of the college in motion; and, also, what is of greater importance, for the regulation of the

practice of physic *throughout England*. This new power consists in the creation of the Elects, who are to consist of the six persons originally named in the charter, with two more persons, chosen by these six, in order to make eight in number.

"And that the same Elects yearly choose one of "them to be president of the said commonalty; "and as oft as any of the rooms and places of the "same Elects shall fortune to be void, by death "or otherwise, then the survivors of the said Elects "shall choose, name, and admit, one or more, as "need shall require, of the most cunning and "expert men of and in the said faculty in London, "to supply the said room and number of eight "persons," &c.

It will be seen from this clause that the Elects are a *self-propagated* section of the college, and that the power of appointing the president not only *rests solely with themselves*, but that he must be one *of* themselves. But let us see what, besides, the duties of the Elects consist of. These are very important, as the last clause of the Act will show.

"And where that in dioceses in *England*, out of "*London*, it is not light to find alway men able "sufficiently to examine (after the statute) such as "shall be admitted to exercise physick in them, "and that it may be enacted in this present Parlia-"ment that no person from henceforth be suffered "to exercise or practise in physick through *Eng-"land* until such time as he be examined at "*London*, by the said President *and three of the "said* ELECTS; and to have from the said President "or Elects Letters Testimonial of their approving "and examination, except he be a graduate of "*Oxford* or *Cambridge*, which hath accomplished "all things for his form, without any grace."

Whereas the charter, confirmed in all its points

by the first clause of the Act of Parliament, does away with the power of the Bishop of London and the Dean of St. Paul's to grant Letters Testimonial to practise in London and within a circuit of seven miles, so does the last section of the Act sweep away all the power of the rural diocesans with respect to the rest of England. The explanatory letter, therefore, issued some three years ago by the Poor-law Commissioners, in reference to their regulations with regard to the qualifications of union medical officers, is not correct where it states that every bishop may still licence physicians within his own diocese. It is clear that this Act deprives the bishops of all privileges of that kind which they possessed before the passing of it; and there has been no Act or Charter granted since to restore to them those privileges.

Let us now examine the relation which the licentiates *intra urbem* and the licentiates *extra urbem* bear to each other—a subject which has been lately canvassed.

It is hardly necessary to notice, in the first place, that the two classes of licentiates are *equally ancient*, because they are both created under the same Act of Parliament, that is, the Act, *ipso facto*, creates the *extra*-licentiates, and it ratifies the power of creation of the *intra*-licentiates, which power was conferred by the charter four years previously, but does not seem to have been exercised until the passing of the Act in question.

In the second place, *extra*-licentiates cannot legally practise in London, or within a circle of seven miles round the same, first, because the college abstains from attaching the common seal of the corporation to their Diploma, which is required by the charter, confirmed by Act of Parliament, to be attached to the Diploma of all persons who are

entitled to practise in and *within* seven miles of the city; and, secondly, it is doubtful whether the President and Elects, *as such*, are not confined by the Act to the granting of Letters Testimonial to those only who "exercise or practise physick "through England, in dioceses out of London." However, the by-laws of the college are a sufficient bar to the extra-licentiates practising in London. The penalty is a fine of £5 for every month for transgressing this law.

In the third place, with regard to the right of the licentiates *intra-urbem* to practise *beyond* the limits of seven miles round the city, the Act of Parliament *negatives such a right in the most positive terms.* It enacts, "That no person from henceforth "be suffered to exercise or practise physick *through* "*England*, until such time as he be examined at "*London* by the said *President, and threeof the said* "Elects, and to have from the *said President or Elects* "Letters Testimonial of their approving and exa- "mination," &c. The college could not supersede the Act of Parliament by a by-law, even if it attempted, but I am not aware that it ever had a wish to do so.

Now, it is well known that the *intra-urbem* licentiates are examined by the President and Censors, and that their Diploma bears the signatures of the President and *censors;* whereas no person can practise "in dioceses in England, out of London," "until such time as he be examined at London by "the said President, and *three of the said* Elects," and his Diploma must bear their signatures. It is true that the Act does not attach any penalty to a breach of this injunction; but it is well known that whenever an Act of Parliament forbids anything to be done without awarding a penalty for

non-compliance with its enactments, a breach of it becomes a *misdemeanor* at common law.

It is, therefore, perfectly clear, first, that an *extra*-licentiate renders himself liable to a fine of one hundred shillings for every month * he presumes to practice in London, or within seven miles of the city; and, secondly, that every licentiate *intra-urbem* renders himself liable to fine and imprisonment at common law, every time he pockets a fee beyond the limits of seven miles of the city of London.

It must be admitted that the law shows great inconsistency upon this point; but my object is to give an exposition of the law as it is. However, I may be allowed to remark, in passing, that we ought to consider the early period at which this law was enacted, and the comparatively low state of medical science at that time. As the law now exists, it is evident that *no person* can *legally* practise as a physician both in London and in the country, without possessing a *double licence*, except graduates of Oxford or Cambridge, who must be, at the same time, possessed of the London licence of the College of Physicians.

The charter of Henry VIII. gives the College of Physicians the power of electing annually four persons (censors), who shall have the supervision, scrutiny, correction, and government of all the physicians practising the same faculty within the City of London, or within seven miles round the same, and the *punishment* of them for their delinquencies in the *improper* practice, exercise, and use of the said faculty,—*ac punitionem eorund' pro delictis suis in non bene exequendo, faciendo et utendo illa.* They (the censors) have also the supervision

* It has been decided that if a person practises for a *shorter period* than a month, he is *not* liable to the penalty.

and power of inspection of all sorts of medicines, and of deciding upon their fitness for use by the said physicians, &c.* They have likewise the power of punishing the said physicians offending in the premises, by fines, amerciaments, imprisonment of their bodies, and other reasonable and proper means.†

From the exposition which we have already given, and now give, of this charter, confirmed in all its parts by the Act of 14 and 15 Henry VIII., it will appear that the *only* penalty which the college can inflict upon those who merely *practise* without a licence in London, or within seven miles round the same, is a *fine* of one hundred shillings a month, and that the punishment by *imprisonment* applies to those only who practise *badly, or ignorantly (malapraxis)*, "pro *delictis suis* in *non bene* exequendo, faciendo, et utendo illa."

This power in the charter does not enable the censors to enter the shops, &c., of the apothecaries, for the purpose of examining their drugs, nor of punishing these "medicasters," when found out, for selling drugs of improper quality; for the penalty just described applies only to the *malapraxis* of the *physicians.* It was, therefore, necessary to apply for additional powers to enable the college to suppress the evil attending the sale and use of improper drugs, which appears to have been a very crying evil in those days, as it is in the present; consequently, an Act of Parliament was obtained in the 32nd Henry VIII., which not only

* "Nec non supervisum et scrutinium omnimodarum medicinarum et earum reception' per dictos medicos, seu aliquem eorum hujus modi ligeis nostris pro earum infirmitatibus curandis et sanandis, dandis, imponendis, et utendis, quoties et quando opus fuerit pro commodo et utilitate eorundem ligeorum nostrorum."

† "Ita quod punitio hujusmodi *medicorum* utentium dicta facultate medicinæ, sic in præmissis delinquent' per fines, americamenta, corpor' suor'," &c.

confirms the power of appointment of censors, but also compels these censors, under a penalty of forty shillings, to accept the office, when appointed, and "to search and view once in the year," or "as "often as they shall think meet and convenient," the houses of all apothecaries "*within the said city*" of London, and to burn, or otherwise destroy, all "drugs, wares, stuffs," &c., as "they shall then "find defective, corrupted, and not meet nor con- "venient to be administered in any medicines for "the health of man's body," "the same four per- "sons (censors) calling to them the wardens of the "said Mystery of Apothecaries within the said city, "or one of them."

We suppose that the wardens did not find it to their interest to interfere with their fraternity and their bad "stuffs, wares," &c., for we find, about ten years after (1 Mary), "that if the said "warden or wardens do refuse his or their coming "thereunto forthwith, and immediately," &c., "then the said physicians may and shall execute "that search and view, and the due punishment of "poticaries for any their evil and faulty stuff," &c.; and any person who shall resist such search and view, shall forfeit the sum of ten pounds.

It will be observed that the power given to the college by these two Acts applies to the City of London *only*, so far as the searching, &c., of apothecaries' shops is concerned.

But there is one subject of great importance connected with the Act of 32 Henry VIII., which is, that *it*, as well as the Act of the third year of the same monarch, *declares the science of physic to include the knowledge of surgery*.

Sec. III.—"And forasmuch as the science of "physic doth comprehend, include, and contain a "knowledge of surgery, as a special member and

"part of the same, therefore be it enacted, that "any of the said Company or Fellowship of Physi- "cians, being able, chosen, and admitted by the said "President and fellowship of physicians, may, from "time to time, as well within the City of London, "*as elsewhere, within the realm*, practise and exer- "cise the said science of physic in all and every "his members and parts, any Act, statute, or pro- "vision made to the contrary notwithstanding."

The above clause exhibits a great contrast between the opinions of those eminent and strong-minded men who gave the first move to the government of the college, and their degenerate descendants who ruled over it two or three hundred years later. Nay, we find, within a hundred years of the establishment of the college, that, although the fellows had no objection to dabble in surgery themselves, when it suited their interest, still they kept the regular professors of that branch of the science, as well as the apothecaries, at arm's length. At the present day it moves one's risibility to read some of the old statutes of the college, wherein they fulminate their wrath against the poor "medicasters" and others, who presumed to *study physic* from the prescriptions of the fellows, in order to be able to prescribe afterwards themselves. The physicians, under the penalty of twenty shillings for each offence, were enjoined to manage their scrolls in such a way, that "nihil quicquam *hujusmodi me-* "*dicastris* suboleat, quo concilio, quâve intentione, "aut in quos usus remedia præscribantur." Nevertheless, when we consider the extreme ignorance of the mass of the community in those days, and that the then apothecaries were, if possible, behind the present race of chemists and druggists in their *medciastric* knowledge; also, that the fraternity of chirurgeons at that period were not far more ad-

vanced in their department than the apothecaries were in the knowledge of medicine,—we may, in a great measure, pardon the self-importance of the college, whose members were composed of men of the best education in the country.

"Illud ante omnia scire convenit, quod omnes "medicinæ partes inexæ sunt, ut ex toto separari "non possint," says Celsus; so, also, thought and practised Hippocrates. It is likewise evident, from the foregoing exposition of the early laws relating to the college, that the physicians of those days agreed in opinion, in that respect, with the most eminent professors of ancient times. But it is right that the public should know that the college has, of late years, modified its views in regard to this subject, and that the grant of its Diploma at present is in no way conditional upon the candidate's relinquishing the *surgical* branch of the profession.

I have already alluded to the Act of 1 Mary; but, a short time before this (34 Henry VIII.), an extraordinary law was passed, which not only went to prove the extreme ignorance, even of *legislators*, in those days, but which also tended to cast no small reflection upon the then race of surgeons. I only mention this law at present, in connection with the College of Physicians, in as far as it encroached, in a small measure, upon its privileges; but, as the 1st of Mary afterwards confirms the whole of the 14 Henry VIII., the *encroachment* upon the rights of physicians is thereby removed.

The object of the 1st of Mary, besides confirming the original Act (14 and 15 Henry VIII.), was to enlarge and strengthen the power of the college in "correcting and punishing all offenders and trans-"gressors in the said faculty," &c., and "for the "better execution and view of poticary wares, "drugs," &c. The powers conferred by this law

are very great and stringent, but, doubtless, not more so than the necessity of the period required. The cry of those who are duly qualified according to law, has always been, and still is, that they are not protected against pretenders and empirics in the profession. It must be admitted, to the great honour and credit of the College of Physicians, that that body did labour most energetically in suppressing quackery about the time of which we are speaking, and the consequence was that the profession of medicine improved rapidly in respectability, rank, and power in this country, where, before the incorporation, it had been far behind what it then was in most countries on the continent of Europe.

It is well known that the Archbishop of Canterbury has, in some instances, taken upon himself to create physicians. The supposed authority of his Grace to grant licences is founded upon the 25th Henry VIII., c. 21, intituled "The Act concerning "Peterpence and Dispensations." The fourth section enacts "That the said Archbishop, and his "successors, after due and good examination by "them had of the causes and qualities of the per-"sons procuring for licences, dispensations, com-"positions, faculties, delegacies, rescripts, instru-"ments, or other writings, shall have full power "and authority by themselves, or by their sufficient "and substantial commissary or deputy, by their "discretions, from time to time, to grant and dis-"pose, by an instrument under the name and seal "of the said Archbishop, as well to any of your "subjects as to the subjects of your heirs and "successors, all manner of licences, dispensations, "&c., for any such cause or matter, whereof "heretofore such licences, dispensations, &c., *have* "*been accustomed to be had at the see of Rome*, or

"by the authority thereof, or of any prelate of this "realm."

In the first place, I may remark that the Pope *never had* the power or "authority," as far as anything is known, of granting licences for *practising medicine* in this country. The authority given to the "prelates" of England to grant such licences was not founded upon *prescription*, but upon an *Act of Parliament*, then of very recent date, namely, the 3rd Henry VIII. This authority they did not retain more than *eleven years*, because the Act of the 14th and 15th of the same monarch superseded that of the 3rd year of his reign. The Act of the 14th and 15th, as has been already often remarked, says, "That no person from henceforth "be suffered to exercise or practise physick through "England, until such time as he be examined at "London, by the said President, and three of the "said Elects," &c. So that, in fact, all the power or authority which the prelates might have previously possessed, either by prescription, by custom, or by Act of Parliament, was taken away from them by this Act of the 14th and 15th of Henry, which law has never since been repealed. Nay, it was confirmed by the 1st of Mary, *subsequently* to the passing of the 25th Henry VIII.—the Act which has been supposed to confer on the Archbishop the power of granting licences in medicine.

It is right, however, to mention, that the "Act "concerning Peterpence and Dispensations," was repealed by the 1st and 2nd of *Philip* and *Mary*, and again *re*-enacted to its full extent by the 1st *Elizabeth*, c. 1; so that, in point of fact, whatever power the Act originally conferred on the Archbishop of Canterbury of granting licences, &c., was confirmed by an Act (1st *Elizabeth*) passed *subsequently* to the Act (1st *Mary*) which confirms the

power of the college and the two universities as the sole authorities for licensing physicians.

But, in truth, it is straining an Act of Parliament most marvellously, to construe any part of "the Act concerning Peterpence and Dispensa-"tions" to apply to the granting of *secular* licences. The whole bearing and intention of it relates solely to spiritual and ecclesiastical matters, as is clearly shown by the preamble. It is, in a word, an Act for abolishing the exactions and interference of the POPE in ecclesiastical affairs in this kingdom, and for transferring the necessary Spiritualities from the see of Rome to the see of Canterbury.

As a further proof, if it were necessary, that the Legislature does not acknowledge any such authority on the part of the Archbishop, the Apothecaries' Act (55th George III.) imposes a penalty on any apothecary who refuses to dispense to the prescription of "any physician *lawfully licensed* to "practise physic by the *President and Commonalty* "*of the Faculty of Physic in London*, or by *either* "*of the two universities of Oxford or Cambridge.*"*

* The following is a copy of the Diploma granted by Dr. Sheldon, the Archbishop of his time, to Lilly, the Astrologer:— "Gilbertus providentia divina Cantuariensis Archiepiscopus totius Angliæ Primas et Metropolitanus, dilecto nobis in Christo *Gulielmo Lilly* in Medicinis professori, salutem, gratiam, et benedictionem. Cum ex fide digna relatione acceperimus te in arte, sive facultate medicinæ per non modicum tempus versatum fuisse, multisque de salute et sanitate corporis verè desperatis (Deo omnipotente adjuvante) subvenisse, eosque sanasse, nec non in arte predicta multorum peritorum laudabili testimonio pro experientia, fidelitate, diligentia et industria circa curas quas susceperis, peragendas in hujusmodi arte Medicinæ merito commendatum esse, ad practicandum igitur, et exercendum dictam artem Medicinæ in et per totam Provinciam nostram Cant: *(Civitate Lond' et circuitu septem milliarum eidem prox' adjacen' tantummodo exceptis,)* ex causis prædictis et aliis nos in hoc per te juste moventibus, præstito primitus per te juramento de agnoscendo Regium supremam potestatem in causis ecclesiasticis et temporalibus ac de renunciando, refutando, et recusando omni, et omni modo jurisdictioni, Potestati, Authoritati, et Superioritati, foraneis juxta vim formam et effectum Statuti Parlamenti hujus inclyti regni Angliæ liceat et non aliter neque

In conclusion, it may be affirmed, most positively, that no person, or body of persons, has or have any right or authority, according to law, to grant a Diploma or Licence to enable any person to practise as a physician in England, except the College of Physicians of London, and the two universities of Oxford and Cambridge.

The College of Physicians has had many difficulties to contend with in the course of its history. The principal ones have been those arising from the attempt of its own Licentiates to force themselves into the Fellowship. It has been decided repeatedly, that the licentiateship gives no necessary claim to the fellowship, and that the college had an undoubted right to form its own regulations with regard to admission, provided its by-laws were reasonable, and in accordance with the laws of the land. The decision, in most of the cases in dispute, was grounded upon the fact, that persons having accepted a licence under the by-laws of the college (which the college had a right to make), "ought not afterwards to desert it, and treat it as "null and void, and set up a right of admission "under the charter, upon the foundation of this "very licence which they had accepted under the "by-law, upon the supposition that the by-law "was a bad one." Even graduates of Oxford and Cambridge cannot claim admission into the fellowship as a right.

The college has been censured of late years for

alio modo te admittimus, et approbamus tibique licentiam et facultatem nostras in hac parte, Tenore præscntium quamdiu te bene et laudabiliter gesseris benignè concedimus et elargimur. In cujus rei testimonium sigillum (quo in hac parte utimur) presentibus apponi fecimus. *Dat. Undecimo Die Mensis Octobris, Anno Domini* 1670 *Nostræque Translationis Anno Octavo.*

(LS) *Radulph Snowe, et Edm. Sherman.* } Registrarii.

S. Rich. Lloyd, Sur.

Vicarii in Spiritualibus Generalis per provinciam Cantuariensem."

conferring its Diploma on extra-licentiates. This must appear strange to those who are acquainted with the law. The fact is, that the college could not, if it wished, refuse granting it: at any rate, it could not refuse admitting candidates to an examination for it, without rendering itself liable to a *mandamus* from the Court of Queen's Bench. It is the only legal licence it *can* grant to provincial physicians; because, as I said before, the London licence does not authorise any person to practise beyond seven miles of the city. The college has been bound by the same law for a period above *three hundred and twenty years*. *Why* it should be censured for granting the one Diploma more than the other, perhaps those who cavil at it will be able to explain: both are conferred by authority of the same Act of Parliament. Whether the metropolitan licentiate trespasses oftener on the ground of the rural physician, or *vice versa*, I do not know; but it appears to me that the college does all it can in the case, namely, *it requires the same qualification for both licences*. Whether the Diploma signed by the *Elects*, or that signed by the *Censors*, be the more honourable, if there be any difference between them in that respect, every one is at liberty to form his own opinion: and whether the examination for the one, or that for the other, be the more efficient, must be left to be determined by those who have witnessed *both*.

When we compare the College of Physicians with some other medical corporations, it cannot be denied that both its constitution and practice are much more open and liberal than theirs are. Its charter embraced all persons resident in the metropolitan district who were *duly qualified* at that period. But, however well adapted it may have been to times past, it is certain that its constitution must

be much modified in order to render it suitable to the present period. The changes which have taken place of late in the representative system, parliamentary and municipal, have rendered other changes necessary; all corporate bodies must, therefore, be made to undergo similar modifications. The representative principle must be more abundantly infused into them, before they can become acceptable to the public or adapted to the present age.

The qualification demanded by the college for its Diploma, according to the regulations of 1838, is one of the highest, taken altogether, required by any college or university in Great Britain. The examinations are also such as to afford a very fair test of the candidate's ability and learning. The candidate must not be less than twenty-six years of age; he must have devoted five years at least to the study of medicine, three of which must be spent at an hospital containing not less than one hundred beds; and he must produce certificates of attendance on lectures, &c., in every branch of medicine, and in many of the collateral sciences.

THE COLLEGE OF SURGEONS.

According to the early Charters and Acts of Parliament, it would appear that there existed in the metropolis *three* classes of surgeons:—First, physician-surgeons, or those who practised medicine and surgery conjointly, and who were, for the most part, graduates of some university; second, barber-surgeons, who did business in surgery in conjunction with barbery; third, persons who practised surgery as a distinct art, and who were generally "foreigners," or persons who had not been admitted to the freedom of the city. There is no doubt, as will appear presently, that the first class formed the only respectable one, and that they alone practised in the higher departments of surgery; whilst the other two confined their practice to the minor operations, and to simple external applications.

The fact of the impossibility of thoroughly separating surgery from medicine is discoverable throughout the whole history of the science. In ancient times, both branches were professed and practised in common; and, even in the history of our own country, as soon as literature and science began to emerge from the darkness in which they had been enveloped for several centuries after the fall of the Roman power, we find the earliest ordinances and statutes which have any allusion to our profession, notice the two branches as still belonging to the same stock. In fact, it was the College of Physicians, partly by its very constitution, but

more especially by its later by-laws, that caused the separation of medicine from surgery; which separation, doubtless, has acted as a great bar to the general improvement of medical science. It was the means of rendering surgery a mere handicraft; at any rate, to be considered as such by the public in general, until a very late period. It was not until as late as 1745 that the surgeons of London succeeded in separating themselves from their fraternity, the barbers; but since that period their advancement in the art and science of their profession has been such as to outstrip those who attend simply to the "*inward* man."

By a charter of Edward IV., granted in the first year of his reign (1461), the "freemen of the Mys-"tery of Barbers of the City of London, using the "mystery or faculty of surgery," were incorporated into one perpetual community; "and the two "principals of the same commonalty, of the most "expert men of the mystery of surgery, might, "with the assent of twelve or eight persons at the "least of the same community, every year, elect and "make out of the community two masters or go-"vernors, being the most expert in the mystery of "surgery, to oversee, rule, and govern the mystery "and commonalty aforesaid, and all men of the "same mystery, and the affairs of the same," &c.; "and that no barber, using the said mystery of "surgery within the said city, or suburbs thereof, "should be in any manner thereafter admitted to "execute, perform, and exercise the same mystery "of surgery, unless he had *first been approved of* "as well instructed in that mystery, by the said "masters or governors or their successors, suffi-"ciently qualified in that behalf," &c.

As has been already hinted at, it will be inferred, from the preamble of the charter, that the func-

tions of this class of surgeons did not apply to the higher branches of the art. The charter sets forth by stating that the "barbers of the City of London, "using the mystery or faculty of surgery, had for "a long time exercised and sustained great ap- "plication and labour, *as well about the curing and* "*healing wounds, blows, and other infirmities, as in* "*the letting of blood and drawing of teeth*," &c. Also, that the said "masters or governors should "have the survey and search of all manner of in- "struments, plasters, and other medicines, and the "receipts to be given, applied, and used *for the* "*curing and healing of sores, wounds, hurts, and* "*such like infirmities*," &c. So that it is evident that the barbers under this, their original charter, had no authority to undertake the treatment of surgical diseases in general, or to perform any operations beyond the minor ones of bleeding, tooth-drawing, and the like.

The barbers of London (barber-surgery never extended beyond one mile round the City of London, by authority of any charter or Act of Parliament) continued to enjoy the privilege of practising surgery, to the extent just mentioned, for about *eighty years*. By the 32 Henry VIII., which I shall notice more at large by-and-by, it was enacted, "that no person within the City of London, su- "burbs of the same, and one mile compass of the "said city, *using any barbery or shaving, should* "*occupy any surgery, letting of blood, or any other* "*thing belonging to surgery, except drawing of teeth* "*only*." The law continued in this form until the 18 George II., when the surgeons were finally separated from their tonsorial fraternity.

Before proceeding to notice the Act of 32 Henry VIII., which incorporates the two classes—surgeons and barber-surgeons—into one body politic, it may

be as well to offer one or two remarks on the ordinances and laws relating to medical surgeons.

"*Lordinance encontre les entremettours de fysyk et "de surgerie.*" "Item pur ouster meschieves et "perils qe longment ont continuez dedains le roialme "entre les gentz par my ceux quont usez larts et le "pracktik de fisik et surgerye pretendantz foi' bien "et sufficeaument apris de mesmes les arts on de "verite non pas estes a grand deceite a le people; "si est ordeinez," &c.; "qe les seigneurs du con-"seil du roy aient poair per auctoritie de mesme le "Parlement de faire et mettre tielle ordinaunce et "punissement envers ceux persones qe desore evan-"ant vorrant entremetter et user le practik des dits "arts et ne sont my hables ne approves en ycelles "come app'ent as mesmes les arts cesstasavoir ceux "de fisyk en les universities et *les surgeons entre les* "*mestres de cell arte*," &c.

I have already noticed the 3 Henry VIII., in speaking of the College of Physicians; it is intituled "An Act for the appointing Physicians and "Surgeons"; and it sets forth that, "forasmuch as "the science of *physick* and *surgery* is daily within "this realm exercised by a great multitude of "ignorant persons, of whom the great part have no "manner of insight in the same, nor in any other "kind of learning; some, also, can read no letters "on the book, so far forth, that common artificers, "as smiths, weavers, and women, boldly take upon "them great cures, and things of great difficulty, "in the which they partly use *sorcery* and *witch-*"*craft*," &c., "to the high displeasure of God, "great infamy to the faculty," &c. It then enacts that none shall practise either physick or surgery without being first examined and admitted by the bishops of the respective dioceses, calling to them, for surgery, expert persons in that faculty, under

the penalty of £5 for every month "that they do "occupy as physicians or surgeons."

There is no doubt that this Act supersedes the charter of Edward IV., already mentioned, so far as the practice of *surgery* is concerned, and that it leaves in force only that portion of it which relates to *barbery*. And it would also appear that the clause which applied to the rural dioceses continued in force, virtually, until the 18 George II., which is the first Act of Parliament that confirms the charter of Charles I., and which extends the qualification to practise to all the British dominions, by the possession of Letters Testimonial from the Surgeons' Company; because the 32 Henry VIII., which incorporates the surgeons of London with the barber-surgeons, does not extend the privileges of the former beyond one mile of the city.

The statutes passed in the reign of Henry VIII. respecting surgery, appear somewhat inconsistent with each other, and can only be reconciled by the fact that there were so many *classes* of surgeons. I have just remarked, that, in the third year of his reign, an Act was passed, that no one should practise surgery who had not been admitted by the bishops, &c. Two years after, we find the surgeons petition to be discharged from quests and other things, and the ground of their petition is their "not passing in number *twelve persons*." "Therefore, for that there be so small number of "the said Fellowship of the Craft and Mystery of "Surgeons, in the regard of the *great multitude of* "*patients that be*," &c., it is enacted that "your said "supplicants be discharged and not chargeable of "constableship, watch, and of all manner of office "bearing any armour, and also of all inquests and "juries within the City of London."

The declaration in the preamble of this Act is

"important if true," inasmuch as it shows that surgeons, "from the time that no mind is to the "contrary, as well in this noble City of London, *as* "*in all other cities and boroughs within this realm or* "*elsewhere*," had been exempt from watch and ward, the bearing of arms, &c.; and this exemption, with regard to *surgeons*, is brought down to the present time, through all the charters and Acts of Parliament granted since the period of which we speak.

It may not be amiss to mention here, that the College of Physicians has invariably guarded the rights of its members to practise surgery, from the 32nd Henry VIII., when, as a college, it first obtained that right, down to the present period, notwithstanding all the acts and charters which have been granted to the surgeons since that time. As the law stands, a physician, if belonging to the College of Physicians, may practise surgery in any part of England; but a surgeon, as such, cannot legally practise medicine. If a licentiate of the Apothecaries' Company, he may, it is true, practise medicine as an apothecary, but not in right of being a surgeon.

In the session of Parliament of the 32nd Henry VIII., two very important Acts were passed; one relating to physicians, and the other to surgeons. The former, as already observed, exonerates physicians from watch and ward, &c.; gives the college increased powers to search apothecaries' shops, and to punish refractory persons; and declares physic and surgery to be one science, giving physicians the right to practise surgery "as well within the "City of London as elsewhere within the realm;" and the other Act, which applies to surgeons, incorporates "the surgeons of London" with "the "barbers of London." These two Acts evidently

had a bearing upon one another, and were under the consideration of the Legislature at the same time. The former is chapter 40, and the latter chapter 42.

The Surgeons' Act sets out by stating, that "forasmuch as within the said City of London "there be now two several and distinct companies "of surgeons, occupying and exercising the said "science and faculty of surgery, the one company "being called *The Barbers of London*, and the "other company called *The Surgeons of London*, "which company of barbers be incorporated to sue "and be sued," &c.; "and the other company, "called The Surgeons, be not incorporated, nor "have any manner of corporation," &c. The two are then declared one body corporate, under the name of "*Masters or Governors of the Mystery and "Commonalty of Barbers and Surgeons of London.*" This Act confirms all the ancient rights and privileges of surgeons, as well as the rights and privileges granted by the charter of Edward IV. to "The Freemen of the Mystery of Barbers of the "City of London, using the mystery or faculty of "surgery."

The second section of the Act gives the company a claim to four bodies of persons executed for felony, to use for anatomy.

Although the ostensible object of the law is to unite the surgeons and the barbers into one body corporate, yet, by the third clause, the right of the barbers to practise surgery is absolutely abolished. "That no manner of person within the City of "London, suburbs of the same, and one mile com-"pass of the said City of London, using barbery or "shaving, or that hereafter shall use any barbery "or shaving, he nor they, nor none other of them, "to his or their use, shall occupy any surgery,

"letting of blood, or any other thing belonging to "surgery, *drawing of teeth only except.*" The surgeons are, in like manner, debarred from practising barbery; so that, in effect, the two mysteries are rendered perfectly distinct in practice by this Act, although they are created into one body corporate.

Section 4th declares "that no manner of person "presume to keep any shop of barbery or shaving "within the City of London except he be a *free-*"*man* of the same corporation and company;" but the Act does not give any power to prevent or punish any one who may practise *surgery* without being a freeman, provided he comply with its enactments in other respects.

The fifth clause gives the masters or governors the right of "the oversight, search, punishment, "and correction of all such defaults and incon-"veniences as shall be found among the said com-"pany using barbery or surgery, as well freemen "as foreigners, aliens, or strangers;" "and if any "person or persons using any barbery or surgery "at any time hereafter offend in any of these "articles aforesaid, that then, for every month, the "said persons so offending shall lose, forfeit, and "pay five pounds," &c.

Such are the chief provisions of the "*Act for* "*Barbers and Surgeons*," which may be considered as forming the original foundation of the present College of Surgeons. Nominally, it unites the surgeons to the barbers, but, *practically*, it renders them two separate and distinct classes. In those days, as well as at present, *union* was considered *strength*. Before their junction with the barbers, the surgeons of London were like stray sheep; they were, in fact, "*foreigners*," according to the term of that period, and were unable to protect their own interests. Ten years before the date of this Act, the

surgeons, amongst others, complained of being molested in their practice for not being freemen of the city, and that they were reckoned among, and treated as, handicraftsmen in general. They then obtained an Act "That no person or persons, "strangers, being a common baker, brewer, *sur-* "*geon*, or scrivener, shall be interpreted or ex- "pounded handicraftsmen," &c., nor be liable to the penalty attached to foreign handicraftsmen.

We come next to a most spiteful law relating to surgeons. It has all the appearance of having been conceived in malice and passed in ignorance. It is intituled "An Act that persons being no com- "mon Surgeons, may minister Medicines notwith- "standing the Statute." In the preamble, the Act of the 3rd Henry VIII., which was passed above thirty years before, is recited, but no notice is taken of the Surgeons' Act, passed only two years previously; so that, it would appear, the Legislature was entirely ignorant of what had been done in the matter two years before, and proceeded to pass a law to remedy an evil which no longer existed.

This Act (34th and 35th Henry VIII.) is a great curiosity. After reciting that part of the statute of 3rd Henry VIII. which relates to surgery, namely, "that no person within the City of London, nor "within seven miles of the same, shall take upon "him to exercise and occupy as physician or sur- "geon, except he be first examined, approved, and "admitted by the Bishop of London," &c., it proceeds to say, that "since the making of which Act, "the Company and Fellowship of Surgeons of Lon- "don minding only their own lucres, and nothing "the profit or ease of the diseased or patient, have "sued, troubled, and vexed divers honest persons, "as well men as women, whom God hath endued "with the knowledge of the nature, kind, and

"operations of certain herbs, roots, and waters, and "the using and ministering of them to such as "been pained with customable diseases, as women's "breasts being sore, a pin and the web in the eye, "uncomes of hands, burnings, scaldings, sore "mouths, the stone, stranguary, saucelim, and "morphew, and such other like diseases," &c.; "and it is well known that the surgeons admitted "will do no cure to any person but where they "shall know to be rewarded with a greater sum or "reward than the cure extended unto; for in case "they would minister their cunning unto sore "people unrewarded, there should not so many *rot* "and *perish to death* for lack of help of surgery as "daily do." "For although the most part of the "persons of the said Craft of Surgeons have small "cunning, yet they will take great sums of money "and do little therefore; and by reason thereof, "they do sometimes impair and hurt their patients, "rather than do them good." In consideration of these evils, it is enacted, that any person, being the King's subject, may lawfully "practise, use, and "minister, in and to any outward sore, uncome, "wound, apostemations, outward swellings, or dis-"ease, any herb or herbs, ointments, baths, pultess, "and emplasters," &c., "or drinks for the stone, "stranguary, or agues, without suit, vexations," &c.

Such is the substance of this precious statute. The *medical* part of it, relating to "drinks," is superseded by the 1st Mary, "An Act touching the "Corporation of Physicians in London;" but the *surgical* part is not superseded by any Act of Parliament until the 18th George II., c. 15, sec. 8, which confirms the charter of Charles I.

In the year 1630, the fifth of his reign, Charles I. granted a charter to the surgeons, not only con-

firming all the grants, privileges, and immunities which they already enjoyed, but also extending their jurisdiction to the distance of seven miles round the City of London, and empowering them to punish unqualified persons found practising within that limit. This charter is most important, inasmuch as it is confirmed in all its parts by an Act of Parliament, namely, 18 George II. As recited in the preamble of that Act, it declares, "That no person or persons whatsoever, whether a "freeman of the said society, or a foreigner, or "a native of England, or an alien, should use or "exercise the said art or science of surgery within "the said Cities of London and Westminster, or "either of them, or within the distance of *seven* "*miles* of the said City of London, for his or their "private lucre or profit (except such physicians as "are therein mentioned), unless the said person or "persons were first tried and examined, in the "presence of two or more of the masters or go-"vernors of the mystery and commonalty aforesaid "for the time being, by four or more of the said "examiners, so to be elected and constituted as "aforesaid; and by the publick Letters Testimonial "of the same masters or governors, under their "common seal, approved of and admitted to exer-"cise the said art or science of surgery, according "to the laws and statutes of the kingdom of Eng-"land, *under the penalty* in the said letters patent "mentioned."

It may be doubtful whether the penalty could have been imposed upon unqualified practitioners by the charter of the corporation without an Act of Parliament. We have no account of its having been attempted. It is well known, that, about the period of which we speak, Parliament became extinct for many years, and that a considerable space

elapsed before it exercised any useful powers. It was one hundred and fifteen years subsequent to its date that the charter received the confirmation of an Act of Parliament.

The power of supervising and controlling the practice of surgery by the corporation, extended to the distance of seven miles round the City of London, but the charter likewise declares "That all "and every of the said freemen and surgeons so "examined, approved of, and admitted as afore-"said, might lawfully use and exercise the same "art and scienee of surgery, as well within the "Cities of London and Westminster, the liberties "and suburbs thereof, as in *any other cities, towns, "boroughs, and places whatsoever of the kingdom of "England.*"

The charter, moreover, declares, "That no one "should go out from the Port of London, or send "out any apprentice, servant, or other person "whomsoever, from the same port, to execute or "undertake the place or office of a surgeon for any "ship, whether in the service of the Crown, or of "any merchant or others, unless they and their "medicines, instruments, and chests respectively, "were first examined, inspected, and allowed by "the masters, governors," &c., under the penalty therein mentioned. So that, upon the whole, so far as a *charter* could confer privileges on surgeons, and a right of control over the art of surgery, that of Charles I. went a great step towards raising the character of that branch of the profession.

As the corporation, consisting of the barbers and surgeons, possessed property in common, Charles could not legally separate the two mysteries by letters patent, so that they remained in union for a period of one hundred and fifteen years longer, as already mentioned.

In the year 1745 the surgeons were relieved from their connection with the barbers. It may appear rather wonderful that they should not have emancipated themselves before that time. It is true, that, for many years after the granting of King Charles's charter, the stability of the Crown was not very certain, and that Parliament, when it existed, had other matters to require its attention; yet, it might be supposed that, during the period of more than fifty years, which intervened between the accession of William III. and the 18 George II., the surgeons would have made some struggle for their release, especially when we consider that the greater part of that period constituted what has been called "the Augustan age of England." The fact, however, is, that the surgeons of London and the barbers of London continued to exist as one body corporate until dissolved, in 1745, by an Act of Parliament.

The preamble of this Act (18 George II., c. 15), referring to the 32 Henry VIII. (the statute which incorporates the two mysteries), declares, that "Whereas, since the said Act for incorporation of "the said two companies, those of the said com- "pany practising surgery have, from their sole "and constant study of, and application to, the said "science, rendered the profession and practice "thereof of great benefit to this kingdom; and "whereas the barbers belonging to the said cor- "poration are now, and for many years have been, "engaged and employed in a business *foreign to*, "and independent of, the practice of surgery; and "the surgeons belonging to the same corporation "being now become a *numerous and considerable* "*body*, and finding their union with the barbers "*inconvenient* in many respects, *and in no degree* "*conducive to the progress and improvement of the art*

"*of surgery*," &c.; the two companies are, therefore, divided and constituted into two distinct bodies, that of the surgeons to be called "by the "name of *Master, Governors, and Commonalty of* "*the Art and Science of Surgeons of London*."

Thus, after having been incorporated with the barbers for a period rather more than *two hundred years*, the surgeons of London were at length, for the first time in the history of the country, made an independent body, although during the whole of that time the barbers were debarred from practising surgery, by the provision of the statute of the 32 Henry VIII., "drawing of teeth only ex-"cepted." This Act (18 George II.) confirms all the privileges and immunities granted by any statutes or charters to the surgeons up to the time of its being passed. It ordains, amongst other things, that all persons "who have already been, "or hereafter shall be, examined and approved "pursuant to the rules and orders of the said com-"pany, for so long a time as they shall use and "exercise the said art or science of surgery, and "no longer, shall and may at all times hereafter, "be freed and exempted from the several offices of "constable, scavenger, overseer of the poor, and "all other parish, ward, and leet offices, and of "and from the being put into, or serving upon, "any jury or inquest." The Letters Testimonial of the company, under their common seal, is to be held as proof sufficient for exemption.

The new company is to be governed by *twenty-one* of its members, who are to be denominated the "Court of Assistants," and who are to retain their offices during their natural lives. *One* of these is to be styled "principal master or governor," and *two* others are to be called "governors or war-"dens." These three officers are to be chosen

annually by "the court of assistants," from among their own body. When any of the members of the court of assistants shall happen to die, or shall be removed for misconduct, or shall have resigned their office, the vacancy is to be filled up by the court of assistants, from among the freemen of the company. Moreover, *ten* out of the twenty-one constituting the court of assistants, are to be "examiners of surgeons;" and these "examiners," having been appointed, are to retain their office during their lives. In case of the death of any of the examiners, the vacancy is to be filled up from among the rest of the court of assistants; and the vacancy in the court of assistants is to be supplied from among the freemen of the company, as before described. *Sixteen* out of the twenty-one who were to constitute the court of assistants at its commencement, are named in the Act, and these, at their first meeting, have the power to add *four* to their number, from amongst the freemen at large. The ten first examiners are specially named in the Act, and are, of course, among the sixteen already mentioned. "Provided also, and it is "further enacted and declared, that John Ranby, "Esq., principal sergeant-surgeon to his Majesty, "shall be, and is hereby constituted and appointed, "principal master or governor, and that Master "Joseph Sandford, and William Cheselden, Esq., "two of the present wardens of the said united "company, shall be," &c., "the two other governors "or wardens of the Company of Surgeons made, "established, and incorporated by this Act," &c.

It is probable that it was, in a great measure, at the instance of Cheselden that the struggle was made by the surgeons to separate themselves from the barbers. Up to the time of this eminent professor, surgery, as a science, seems to have made

but little progress in this country. It is unnecessary here to allude to the rapid strides it has made since that period, or to recall to the minds of the readers the names of the numerous eminent individuals who have shed lustre upon it within the last century.

I have already noticed that the charter of Charles rendered it penal upon any one who practised surgery in London, or within seven miles of the city, without having been duly examined and licensed; but, probably, the penalty could not have been legally enforced without an Act of Parliament, because it might have interfered with the rights of some others of the King's subjects. The present Act (18 George II.), which fully confirms that charter, must evidently put it in the power of the corporation to impose the penalty awarded by the charter. The wording of the Act is very strong upon that point. It enacts, "that the said Com-"pany of Surgeons," &c., "and all persons who shall "be freemen of the same company or corporation, "shall have, hold, and enjoy all and every such and "the same liberties, privileges, franchises, powers, "and authorities," &c., as the former corporation did enjoy "by virtue of the said recited Act of union "or incorporation (with the barbers), *and the said "letters patents of his said late Majesty King Charles "the First respectively*, and other the royal grants, "charters, and patents," &c., "*in as full, ample, "and beneficial manner, to all intents and purposes, "as if the same had in and by this present Act been "expressly repeated and re-enacted.*" Then it proceeds: "And that they, and all such who already "have been, or hereafter shall be, examined and "approved, pursuant to the rules of the said com-"pany, shall be entitled to practise freely, and with-"out restraint, the art and science of surgery,

"*throughout all and every of his Majesty's dominions*, "any law or custom to the contrary notwithstand- "ing."

And, further, "Provided always, and be it here- "by enacted, by the authority aforesaid, that this "Act, or anything therein contained, shall not ex- "tend or be construed, or taken to prejudice, abridge, "or infringe any of the privileges, authorities, "powers, rights, liberties, or franchises heretofore "granted by any Act or Acts of Parliament, letters "patents, charters," &c., "to the President and "College or Commonalty of the Faculty of Physick "in London."

Such is the substance of the Act of the 18 George II., relating to surgeons. It must be admitted to be a very important one, not only in so far as it separates the surgeons from their connection with the barbers, but also in its general bearing upon the profession of surgery. It only required to be carried out properly to be rendered most useful both to surgeons and to the public. Although the power of inflicting a penalty upon unqualified practitioners extended only to the distance of seven miles round the City of London, still, if the law had been judiciously enforced, much good might have been done in curbing the presumption of empirics; while, at the same time, persons qualified under the Act were declared free to practise the art and science of surgery throughout the King's dominions.

But there is reason to believe, and at the same time to regret, that the statute became almost a dead letter in the hands of those whose duty it was to administer it. In truth, the Act appears to have been *lost*, and what became of it, or how it became lost, whether there be any one now living who can inform us, I do not know. When I state

that it was lost, I mean that the company, from some cause or other, allowed itself to dissolve; for, in the charter of the present College of Surgeons, the reason assigned for granting it, as stated by his then Majesty, is, "And whereas we are *in-* "*formed* that the said corporation of Master, Go- "vernors, and Commonalty of the Art and Science "of Surgeons of London, *hath become and now is* "*dissolved*," &c. The Act is still on the statute-book, and has neither been repealed nor superseded by another Act of Parliament. I am not acquainted with the reason why, nor the mode by which it became null and void. The original College charter is nothing more than a revival of the statute, without possessing the force and authority of an Act of Parliament.

Fifty-five years (1800) after the Act for the separation of the surgeons from the barbers came into force, a charter was granted by King George III., in the fortieth year of his reign, for constituting the surgeons into a college, "by the name of the *Royal* "*College of Surgeons in London*." In the preamble, the various charters and statutes are mentioned which had previously regulated the art and science of surgery; and, last, the Act of his Majesty's grandfather, George II., which we have just been considering. After stating that he is "informed" that the old corporation "hath become and now is "dissolved," his Majesty, in the charter, proceeds to declare, that, "Whereas it is of great consequence "to the common weal of this kingdom, that the art "and science of surgery should be duly promoted; "and whereas it appears to us that the establish- "ment of a College of Surgeons will be expedient "for the due promotion and encouragement of the "study and practice of the said art and science; "now we, of our special grace," &c., "and at the

"petition of James Earle, Esq., the late master, "and divers other members of the aforesaid late "corporation of surgeons, have willed, ordained, "constituted," &c.

It is unnecessary to say more respecting the constitution of the charter, than that it is the counterpart of the Act of George II. It establishes a court of assistants, consisting of twenty-one members, whose office is for life, and of whom one is to be master, and two to be governors, appointed annually. Also ten of the said court of assistants, including the master and the two governors, are to be "examiners of surgeons." In case of a vacancy in the court of assistants, the charter ordains that the preference shall be given to the two sergeant-surgeons to the Sovereign, and the surgeon-general to the forces, if these officials should not already be members of the court. The college has conferred upon it all the gifts, grants, liberties, privileges, immunities, possessions, &c., which the surgeons had ever enjoyed in virtue of any Acts of Parliament or charters. It is to be in no way under the jurisdiction of the corporation of the City of London. By order of the commander-in-chief of the forces, or by order of the lord high admiral, or commissioners for executing that office, it is bound to examine all candidates applying to be admitted into the army or navy respectively, and to inspect all instruments, &c., to be used for those services. All persons who were members of the old dissolved corporation were to become members of the college, provided they applied to be registered within six months after the date of the charter; but no other person, "unless he shall have obtained letters testi- "monial of his qualification to practise the art and "science of surgery, under the common seal of the "college hereby established; but every person who

"shall hereafter obtain such letters testimonial, "under the common seal of the college aforesaid, "shall thereby, by virtue of such letters testimonial, "become and be constituted a member of the said "college, subject to all the regulations, provisions, "and by-laws of the said college." "No court or "courts for the examination of any person or per- "sons, touching their skill in surgery, shall ever be "held but in the presence of the master, or one of "the governors, and five of the members, at least, "of the court of examiners of the said college." The master, governors, assistants, and examiners respectively, are to take an oath, prescribed by the charter, that they "will diligently maintain the "honour and welfare of the said college, and in all "things relating to their office, and with all manner "of persons, act equally and impartially, according "to the best of their skill and knowledge."

Such is an abstract of the provisions of the royal charter under which the College of Surgeons was established. As the Sovereign is the fountain whence all honours flow, he or she may at pleasure confer any titles or privileges, by charter or otherwise, upon an individual, or a body of individuals, provided no person be aggrieved thereby; but charters, when they award penalties for a breach of their provisions, do not carry the weight of an Act of Parliament with them into a court of law. But the charter of the College of Surgeons does not pretend to render it compulsory upon medical men, or surgeons generally, to become members of the body corporate. It leaves it optional for them to do so or not, according to their own discretion; so that, even if it were ratified by an Act of Parliament, it would require some new enactments to render it illegal for those who are not members to practise surgery.

But a question might arise upon the law as it now exists, as to whether it may not be illegal to practise as surgeons in *London, and within seven miles of the same*, without a Diploma from the college. It has been already mentioned that the charter of Charles I. renders it penal to do so, and that that charter was fully confirmed by the Act 18th George II. Now, the question is, how far the corporation established by that statute affects its enactments by *dissolving* itself? George III., in the preamble of his charter, says, "And whereas "we are informed that the said corporation of "Master, Governors, and Commonalty of the Art "and Science of Surgeons of London hath become, "and now is, dissolved." Supposing the members of that corporation had neglected their duties in such a way as not to fill up vacancies, or other things, according to the provisions of the Act of Parliament, and thereby cause its dissolution, does it follow that the Act itself ceases to be a part of the law? If it does cease, there is an end of it; but if not, cannot the present college still enforce its enactments? The present college is the old corporation, restored under a new name as a body, but its officers bearing the same names of master, governors, and assistants. It is, then, a question, as stated before, whether the College of Surgeons of the present day be not as much under the influence of the Act 18th George II., as the former corporation of surgeons was.

A supplementary charter was granted to the College of Surgeons by George IV., in the third year of his reign, changing the titles of "Master, "Governors, and Assistants," into "President, "Vice-Presidents, and Council," which latter titles the governing body at present bear and enjoy. As this charter does not otherwise make any essential

alteration in the provisions of the former one, it is not necessary to notice it further at present.

On the 14th September, in the 7th year of her reign (1843), our most gracious Sovereign Queen Victoria granted a new charter to the college, containing very material alterations in its internal economy. The corporation, under this charter, has its title changed from that of "The Royal Col- "lege of Surgeons in *London*," to that of "The "Royal College of Surgeons of *England*," and it divides the members into two classes, namely, fellows and ordinary members. Within three months after the date of the charter, the existing council are to select a number not exceeding 300, nor less than 250, from among the members generally, to be the first batch of fellows; and after the expiration of three months, but before the expiration of *twelve* months, they are at liberty to select as many more as they like, to form another batch of fellows. After the end of one year from the day of the date of the charter, "no person shall become or be ad- "mitted as a fellow of the said college until he "shall have attained the age of 25 years," "nor "unless he shall have passed such *special* examina- "tion by the examiners of the said college as the "council shall from time to time think fit, and by a "by-law or by-laws direct that candidates for a "fellowship of the said college shall undergo; but "every fit and proper person having attained such "age, and complied with such rules and regulations, "and passed such special examination, shall be "entitled to be admitted a fellow of the said col- "lege."

Every unlucky wight of a member who is so unfortunate as not to be sufficiently in the good graces of the council, to enable him to be got elected amongst the first or second batches of fellows

already mentioned, can never, under this charter, expect to get into the fellowship of his college without going to school again. Persons in practice, especially in the country, cannot leave home to attend lectures anew, so as to qualify themselves for the "special examination."

The council, which, under the original charter, was self-elected, is, under the new charter, to be elected by the fellows; and its members are to be increased in number from 21 to 24. The present members are to continue in office for life. Of the elective members, three are to go out of office every year, but are eligible to be re-elected. The election is to be on the first Thursday in July every year, or within one calendar month afterwards. The meeting is to consist of at least 15 fellows. "No member of the college, who is not also a fel-"low, is eligible to be on the council; nor shall "any fellow be eligible while practising midwifery "or pharmacy, or shall have practised midwifery or "pharmacy at any time during the five years next "preceding the day of election, nor unless he shall "reside and *bonâ fide* practise his profession of sur-"geon within five miles by highway or road from "the General Post-office in St. Martin's-le-grand."

The foregoing clause renders it impossible for any provincial surgeon, however eminent, ever to become a member of the council. It need hardly be remarked that such a provision is abundantly arbitrary. And, as if the charter had been manufactured for the special benefit of a clique, it provides that as few as possible of the London fellows even, shall continue eligible for any length of time.

"That when any eligible fellow shall have been "passed by for want of any such nomination as "aforesaid, or having been balloted for shall not be "elected a member of the council, he shall cease to

"be eligible to be elected, except upon such special "terms of nomination as shall by the council by "by-law be for the time being provided for such "cases, and upon such special terms any fellow so "passed by or not elected, may be re-nominated for "and be elected a member of the council, but if he "shall be on such second occasion either passed by "or not elected, he shall for ever thereafter cease to "be eligible for election upon the council."

"Diamond cuts diamond." Even those whom the charter qualifies to become eligible for members of the council are few, but in order to reduce that number as much as possible, it provides that all persons whose names are once read over and who are not nominated, or who are nominated but not elected, *shall be disqualified for ever* from becoming councillors, except under "special terms," and, even then, a second rejection is fatal to them!

There are to be ten examiners, but no preference is to be given in future to Her Majesty's sergeant-surgeons, and to the surgeon-general to the forces; nor are these officials to have seats in the council, as heretofore, in preference to other fellows possessing the requisite qualifications. The president and vice-president are to be chosen from among the council in general, and not from among the examiners only.

All the rights and privileges granted to the college by the original charter are confirmed, but no by-laws shall be of any force until sanctioned by the Secretary of State.

The new charter has given great offence to the members of the college. This cannot be wondered at, when we consider the very invidious and arbitrary nature of its provisions. In theory, the self-elected council, under the former charter, was objectionable at the present day; but that was tole-

rated, because only a few members could by possibly be raised above their fellow members; but the present charter is unjust, inasmuch as it acts *retrospectively*, by destroying the equality of position of the members generally. Whether one portion be *elevated* above the rest, or the other portion be *lowered* below the level of their brethren, the effect is the same with regard to the opinions of society. It cannot be looked upon in any other light than that of a *penalty* upon all the members who have not succeeded in getting themselves selected for the fellowship.

Although medical men may practise surgery, even in its higher departments, without possessing the Diploma of the College of Surgeons, and although the charter of the college is not supported directly by an Act of Parliament, yet, Acts of Parliament, passed since, have not only acknowledged the authority of the charter, but have declared it essential that persons shall be members of the corporation before they can be eligible to certain public offices connected with the profession of medicine. No person, for instance, can be appointed surgeon to any gaol or house of correction, who is not a member of one of the Colleges of Surgeons of the United Kingdom. This is by enactment of an Act of Parliament (4th George IV.). Also, all surgeons in actual practice, being members of one of the Royal Colleges of Surgeons in London, Edinburgh, or Dublin, are exempted from serving on juries or inquests, by an Act of 6th George IV. Likewise, according to the regulations of the army, the ordnance, the navy, the poor-law commissioners, most of the hospitals, infirmaries, and dispensaries throughout the kingdom, &c., no medical man is eligible to be appointed to any office under them, unless he pos-

sesses Letters Testimonial from one of the three Royal Colleges of Surgeons. So that, in point of fact, although a person may practise medicine and surgery by being a licentiate only of the Apothecaries' Company, still, he is debarred from numerous privileges enjoyed by those possessed of a surgeon's Diploma, and must frequently feel himself placed in an unpleasant position, both with regard to his medical brethren and to society.

One observation is necessary with regard to the members of the College of Surgeons, before quitting the subject. Their daily cry is for protection against quacks and unlicensed practitioners; and this cry is pretendedly raised, as well upon public grounds, for the protection of the public, as upon the principle that those who have been at the expense and trouble of learning a profession, should have their interests protected in the exercise of it. Now, in order to prove their sincerity so far as the good of the community is concerned, the members should come into court with clean hands. How can they expect either Government or the public to listen to their complaint against empirics, when they themselves willingly stretch out a helping hand for encouraging quackery, by opening large shops for the sale, amongst other things, of the nostrums of the very quacks of whom they complain?

There are, also, frequent complaints made against chemists and druggists for "prescribing over the "counter." Surely, if members of the college think proper to trespass upon the grounds of the chemist and druggist, and vie with him in the number and variety of quack nostrums exposed for sale, they ought not to look with a very evil eye upon the latter if he should, in return, do a little business, occasionally, in their line. It is to be

regretted that this state of things is by far the most prevalent where it ought not to exist at all, namely, in the metropolis of England. General practitioners may rest assured that no sort of medical reform will render them respected as they ought, or avail in elevating their character in the opinion of society, until they prove that they know what *self*-respect is.

There cannot be much complaint made against the amount of qualification required by the College of Surgeons. It may, perhaps, be said that *four* years devoted to professional study is rather too short a period for the generality of students to acquire a sufficient knowledge of surgery to qualify them for the higher departments of the science. Until of late years, the college required *six* years. But that which is much to be regretted is, that students are admitted to an examination for the *Diploma* at the early age of *twenty-one*. In this matter, also, the college has marched in the wrong direction, in reducing the required age from twenty-two to twenty-one. In all systems of education, they ought to be made to apply to the average amount of mental capacity. It is true that the precocity of a few individuals would enable them to qualify themselves in everything but *experience*, at an earlier age than that required by the generality; but, as experience is a very necessary ingredient in the qualification of a surgeon, society would be benefitted more by adhering to the rule than to the exception; and the hardship to those few whose early mental development distinguishes them from the rest of their brethren, would be more than counterbalanced by the consciousness that observation and experience are in accordance with the theoretical views which their minds so aptly and so readily comprehended.

In case, therefore, the college should make any alteration in the present regulations, it is much to be hoped that it will require a maturer age, than it does at present, before its Diploma is granted; because the possession of that document raises the presumption that he who holds it is qualified to fill the highest offices in the department of surgery. It is hardly necessary to repeat that the *exception* only is in favour of a person being sufficiently prepared for such appointments at the early age of twenty-one.

THE SOCIETY OF APOTHECARIES.

The origin of most crafts is involved in a degree of obscurity, and that of the apothecaries is not an exception to the rule. We have reason to believe that the physicians and surgeons of yore prepared their own drugs, and dispensed their own medicines. It is probable, however, that they employed assistants to aid them in the more laborious part of the process. These assistants, in the course of time, acquired some knowledge of the quality and properties of drugs, and the consequence naturally was, that they, after a time, tried their hands and skill upon patients of their own.

It is an acknowledged truth, that, although the profession of medicine is that of all others which requires the most extensive knowledge of facts, as well as the most apt power of reasoning upon those facts, yet it is almost the only one in which all the ignorant part of the community think that they have a right to dabble. Not only do the mere sellers of drugs deem themselves qualified to prescribe for the most serious diseases, but also persons who "can read no letters on the book" take upon themselves the treatment of the most dangerous maladies, and their conduct, moreover, is often approved of, and, frequently, their *fame* trumpeted forth by a great portion of the community. This has probably been the case in all ages and in all countries where medicine has been practised as an art.

At the period of the revival of the art of medicine in this country, we hear nothing of the apothecary. If he existed at all, he must have been under the immediate supervision and control of the physician; for there is reason to believe that the medical practitioners of this country, at an early period, practised in a manner similar to the apothecaries of the present day, except that they made their charges for time and skill, instead of for the medicines which they supplied. It is evident that those who were burthened with a heavy business found it requisite to employ assistants, as general practitioners do at present; but those assistants, in point of knowledge, were, probably, not superior to other mechanics of their day. From mere habit, however, and from knowing, in some cases, the names of the complaints of their masters' patients, and also from observing his treatment of them, by his prescriptions, they would necessarily acquire some degree of knowledge of the properties of different drugs, as well as of some of the most prominent diseases for which particular remedies were usually prescribed.

It is also probable that most of these assistants were persons who had served their apprenticeship to grocers, and who had already some knowledge of the outward and sensible qualities of drugs. These persons, after leaving the service of their masters, the physicians, would naturally, if their means admitted, commence business in their own line of trade, namely, grocery (which included the sale of drugs), and would not be backward in exercising their knowledge, as far as it went, in selling their advice to their customers, in addition to their drugs. Such appears to be the most likely way of accounting for the origin of the apothecaries in this country.

It would appear, from the history of the craft, that the apothecaries, having become numerous enough for the purpose, became employed by the physicians, as compounders of their prescriptions. At that period they were independent tradesmen, dealing partly in grocery and partly in drugs, as is the case at the present day in many rural districts; but those who devoted their principal attention to the compounding of drugs, received most the patronage of the physicians; and it became worth their while to give up their whole attention to the pharmaceutical art. In process of time their number increased, and they became a distinct class of tradesmen; but as they grew out of another body (the grocers), they had no corporation of their own. In this respect they were similar to the surgeons of London before the latter were united to the barbers. They appear to have remained in this state for a period not exactly known, but evidently above a century.

In the fourth year of his reign (1607), James I. united the grocers and apothecaries (the stem and offshoots) into one body corporate, by granting to them a charter, which bears date the 9th of April in that year. But this union did not last more than nine years, for in the thirteenth year of his reign (30th May, 1616) he separated them again into two bodies, by another charter. The title of the corporation under the former charter was "The Warden and Commonalty of the Mystery of Grocers of the City of London." *

James's charter to the apothecaries sets out with the usual parade which distinguished that monarch. It states that it had been demonstrated to him in behalf of his beloved subjects, the apothecaries of

* "Per nomen Custod' et Communitatis myster' Grocer' Civitat' London," &c.

London, and also affirmed to him, and approved by his well-beloved Theodore de Mayerne and Henry Atkins, his discreet and faithful physicians, that many empirics and ignorant men in the city and suburbs, did compound unwholesome and corrupt medicine, and did transmit the same into most parts of the kingdom of England, to the reproach and scorn, "not only of the honourable "science of physic and the learned physicians of "this our kingdom of England," but "also of the "apothecaries of the City of London, educated and "expert in the said art and mystery;" "likewise "to the danger and peril of the lives of our sub-"jects.*" For the purpose of remedying these evils, the apothecaries of London are declared an independent corporation.

It appears that, up to the period of their union with the grocers, the apothecaries (like the surgeons of London before their junction with the barbers) were weak and defenceless; and it is doubtful whether they had sufficiently acquired the confidence of the physicians to induce the latter to trust them to dispense their prescriptions; but it will appear, from the preamble of the second charter (1616), that they had so far ingratiated themselves with the physicians, as to induce the latter to intercede for them with the Crown in procuring for them an independent charter. This charter was granted *ninety-five* years after the

* "Quod hisce proximis annis quamplurimi empyrici et homines ignari & inexperti in Civitate nostra London ac ejusdem Suburbis inhabitant et commorantes qui in pharmacopoli arte et mysterio haud institui sed ad eam imperiti et rudes quamplurima insalubria nocivia falsa corrupta perniciosa faciunt et componunt medicamenta eadem in plurimis hujus regni nostri Angliæ partes vendunt & assidue transmittunt in convitium et opprobrium non solum Medicinæ scientiæ illius colendæ Medicorumque hujus regni nostri Angliæ literat' eandem profitentium necnon Pharmacopœiorum Civitat' nostræ London in eadem arte et mysterio educat' et expert' virum etiam subditor' nostror' pericula et assidua vitæ discrimina."

establishment of the College of Physicians. Up to that period, it is quite evident that the apothecaries had not begun to encroach openly upon the practice of the physicians; otherwise, it is by no means likely that the college would have assisted them in procuring their Letters Patent. We shall presently see, however, that the new body soon turned round upon their patrons, and that an open war was ultimately declared between the parties.

The new charter is granted to William Besse, Edward Phillips, and one hundred and fourteen others, who are incorporated under the name of "Master, Wardens, and Society of the Art and "Mystery of Apothecaries of the City of London,"* and by that name they are to have perpetual succession, to sue and be sued, to purchase land, and to have a common seal, which they may break or alter at pleasure; they may also hold meetings and make by-laws for the good government of the society.

The charter confers no right on the apothecaries to prescribe or practise medicine: on the contrary, they are bound to call to their aid the president and censors of the College of Physicians in all matters appertaining to the properties and uses of medicines."†

The society is to consist of a master, two wardens, and twenty-one assistants. The first batch of officers are nominated in the charter; Edmund Phillips is to be the first master, and Stephen Higgins and Thomas Jones are to be the first wardens. The master and wardens are to be

* "Per nomen Magistr' Custod' & Societat' artis et myster' Pharmacopol' Civitat', London."

† "Proviso semper quod pro tot et tal' ordinationibus quæ medicamenta aut compositiones et usum earundem concernent' advocabunt de tempore in tempus Præsidentem et quatuor Censores seu Gubernat' Colleg' & Communitat' Medicorum London aut alios Medicos per Præsidentem prædict' nominand' pro avisamento in hac parte."

appointed annually from among the members of the court of assistants, whose tenure of office is for life; and when a vacancy occurs in the court of assistants, it is to be filled up, by the rest of the court, from amongst the freemen of the corporation at large. The master, wardens, and assistants are to take an oath that they will respectively execute their duties faithfully.

The charter declares that no person or persons whatever shall have, keep, or furnish an apothecary's shop, or exercise the art or mystery of an apothecary, within the City of London, the suburbs of the same, or within seven miles of the said city, unless such person or persons shall have, *during seven years at least*, been taught and instructed as an apprentice, by an apothecary exercising the same art, and being free of the same mystery. At the expiration of his apprenticeship, the pupil is to be presented before the master and wardens for examination, touching his knowledge in the art and mystery of an apothecary. The master and wardens are to call to their assistance the president of the College of Physicians, or some physician or physicians named by him. If approved by this court of examiners, the student is entitled to exercise the art of an apothecary.

No freeman of the mystery of grocers is hereafter to have an apothecary's shop, or to mix or sell any drugs or compounds, under the penalty of five pounds for every month during which such person does exercise the art and mystery of an apothecary, against the true intent of the charter. And the company have full power and authority to take and have the oversight, scrutiny, examination, government, and correction of all persons whatsoever, as well freemen as others, acting as apothecaries in the City of London, or within the liberties

of the same. They have also the authority to enter all shops and warehouses appertaining in any way to the art and mystery of an apothecary, and to search, examine, and try all drugs, wares, receipts, &c., to see whether they are good, wholesome, and fit for the cure and relief of His Majesty's subjects. They have, likewise, full power and authority to examine and try all persons professing, using, or exercising, or who shall hereafter profess, use, or exercise the art and mystery of an apothecary, within the city of London, suburbs of the same, or within seven miles of the said city, of and concerning their skill, judgment, and knowledge of the said art, &c.; and those whom they find ignorant, or who refuse to be examined, they may prohibit to exercise the art of an apothecary. All stale, unwholesome, or pernicious drugs they may burn before the doors of the delinquents, and may also mulct the delinquents in fines and amerciaments; and mayors, justices, constables, and other officers, are charged to assist in carrying the objects of the Letters Patent into effect.

The company is guaranteed all the privileges and franchises, customs, &c., in buying, merchandising, &c., in drugs, aromatics, &c., which they enjoyed when united to the grocers. Power is given to them to purchase and hold property, to appoint a clerk, and a bedell, and to do other things necessary to the maintenance and carrying on of the affairs of the corporation.

The charter is in no way to interfere with the privileges of the College of Physicians, nor with the rights of the surgeons, as far as they enjoyed any at that time.*

* "Et denique volumus et intentionem nostram esse declaramus quod chirurgi experti et approbati eorum artem facultatem exercere possint omenesque et singuli eorum practica sibi propria uti & frui valeant quantum ad compositionem et applicationem medicamentor' externor' solumodo pertinet & spectat."

It is probable that the apothecaries residing in London, and in the suburbs, did not exceed 120 in number at the time they obtained a separate charter; but they increased rapidly, both in number and importance. About the year 1670, the company established a laboratory, for the preparation of chemicals, and became a trading body.

An Act was procured in the sixth year of the reign of William III. (1695), to exempt the members of the company from serving on juries, as well as from serving as constables, scavengers, and other parochial offices. This Act was to continue in force for seven years. It was renewed in 1702 for eleven years longer, and made perpetual in the twelfth year of Queen Anne's reign (1713).

Another Act was obtained in 1724 (10 George I.) to extend the powers of the College of Physicians, conjointly with the wardens of the Apothecaries' Company, for visiting the shops of apothecaries, and "for the better viewing, search-"ing, and examining all drugs, medicines, waters, "oils, &c., within the City of London, the suburbs "thereof, or within seven miles circuit of the said "city." This Act has since expired. It was enacted for three years; re-enacted for three years longer; and it then expired.

I believe that the censors of the college, as well as the wardens of the Apothecaries' Company, are now in the habit of making an annual perambulation in search of bad drugs. It is doubtful whether the practice has ever done much good. As regards the Society of Apothecaries, being traders themselves in drugs, it must always have been an invidious business for them to sit in judgment upon the quality of articles obtained from their competitors. And as to the censors of the college, it may be doubted whether their education or habits

have ever enabled them to be the best judges of the quality of drugs. At the present day, the practice is absurd. For their own credit and interest, general practitioners would get the best drugs they could; and the great majority of the prescriptions of physicians and pure surgeons are dispensed by the chemist and druggist, over whom there is no right of scrutiny. These inquisitions and restrictions are injurious to the general interest of the profession.

Soon after obtaining their charter of incorporation, the apothecaries began to set up their claims to prescribe for patients. This practice, of course, brought down upon them the fulminating powers of the College of Physicians. The war, carried on for many years between the two parties, was very hot; but up to the year 1703, that is eighty-seven years after the incorporation of the apothecaries, the physicians were the conquerors in the open field; but, still, the apothecaries were progressively gaining ground in an insidious way, although the college, on various occasions, exercised the authority which it possessed, in virtue of its charter and Acts of Parliament, of fining the intruders, of burning their drugs before their own doors, and of imprisoning their bodies.

In the second year of Queen Anne (1703), the question was decided between the two parties, by a trial before the House of Lords, upon a Writ of Error from the Court of Queen's Bench. This was in the case of an apothecary named *William Rose*, who was a freeman, and against whom the college brought an action to recover the sum of £5 for every month, for prescribing and administering medicines to one *Scale*, a butcher, residing in the parish of St. Martin, without possessing a licence from the college. A special verdict was given in

favour of the college, and after several hearings before the Court of Queen's Bench, the Judges decided *unanimously* that the facts did amount to the practising of physic within the meaning of the charter and Act of Parliament, and gave judgment accordingly.

Rose obtained a Writ of Error, and the case was argued with great ability before the House of Lords, in the year 1703. "The glorious uncer-"tainty of the law" proved too powerful a match for the college; for, after hearing the *pros* and *cons*, the Lords "*Ordered* and *adjudged*, that the judg-"ment given in the Queen's Bench for the Presi-"dent and College or Community of the Faculty of "Physic, London, against the said *William Rose*, "should be reversed." This decision established the right of the apothecaries to give advice, as well as to dispense and administer medicines.

The apothecaries had scarcely mastered the physicians, when a new class of intruders began, in turn, to tread upon *their* heels. This class consisted of the chemists and druggists, who were then a sort of parasites, deriving their original nutriment from the Apothecaries' Society, but without forming a part of it, or giving it anything in return. These started as mere vendors of drugs, but they gradually got into the practice of dispensing the prescriptions of physicians, who, by the bye, had no cause to be very partial to the apothecaries. The persecution of the chemists and druggists by the apothecaries was far hotter than that of the latter had been, in former days, by the College of Physicians.

For the purpose of coercing the vendors of drugs, who did not belong to their society, the apothecaries applied for, and obtained, a charter in the year 21 George II. (1748), empowering them to license

persons to sell medicines in London, and within seven miles; and also to search shops, and examine drugs, within that distance. As this charter did not receive the sanction of an Act of Parliament, the chemists and druggists became too strong to be managed under it; for they have continued to exercise their calling down to the present time, without the licence of the apothecaries.

We may remark, generally, that down to the period of the Act which we are next going to consider, namely, 55 George III (1815), with the exception of the original statute relating to the College of Physicians, no laws were ever enacted for the protection of *country* practitioners. The Act of 14 and 15 Henry VIII. makes it a misdemeanor to practise physic in any part of England without Letters Testimonial from the College of Physicians; but all the statutes and charters granted since that period, whether to the physicians, surgeons, or apothecaries, either have only applied to London, and seven miles round, or else have been *permissive* merely of the free exercise of their profession by *persons duly qualified.*

Several years previous to 1815, the apothecaries of London began to agitate for medical reform, and, after a time, they procured the aid of some of the country practitioners. If we look pretty closely into the matter, we may be able to discover an *efficient cause* for their great stir in favour of "protection to the *public*" against the ravages committed by ignorant pretenders in medicine. The truth is, that the chemists and druggists were becoming an important body in the City of London and suburbs, and were, as compounders, pressing hard upon the interests of the apothecaries; as the latter had, at a former period, been encroaching upon the privileges of the physicians. This was a

natural process, following in the order of cause and effect; but the result did not turn out exactly as was expected. The chemists and druggists have not only increased in strength, wealth, and importance since the period of which we speak, but they have also acquired the name and title of "Phar-"maceutists," and become incorporated under a royal charter. On the other hand, a great number of the apothecaries are driven by necessity to become the actual chemists and druggists of the narrow streets and by-lanes, and to be content to receive their pittance in the humblest coin; while their more dashing rivals, the "pharmaceutists," who have no special protection by law, take possession of the broadways, and line their *tills* with a more noble metal. The consequence has been anything but favourable to the character and interest of the profession.

The Apothecaries' Act (55 George III., c. 194), intituled "An Act for better regulating the prac-"tice of Apothecaries throughout *England* and "*Wales*," came into operation on the 1st August, 1815. This Act repeals so much of the charter of James I. as relates to the searching of shops and the examination of the quality of drugs, &c., used and sold by apothecaries; and also so much as relates to the examination of persons about to act as apothecaries in London and within seven miles, and the exclusion of others; and, in lieu thereof, it enacts, that the court of the company shall be empowered to appoint persons, not less than two in number, who may enter and search any apothecary's shop "in any part of England or Wales," and destroy any improper drugs or other things belonging to the business of an apothecary they may find therein. Moreover, they may levy fines upon the offender; "for the first offence, £5; for

"the second, £10; and for the third, and every "other offence, £20."

Any apothecary refusing to make up, or wilfully making up improperly, or fraudulently, the prescriptions of "any physician lawfully licensed to prac- "tise physic by the President and Commonalty of "the Faculty of Physic in London, or by either of "the two Universities of Oxford or Cambridge," on conviction before "any of His Majesty's Justices "of the Peace," shall be liable to a fine of £5 for the first offence; £10 for the second; and to a forfeiture of his certificate for the third offence.

The court of assistants are empowered to appoint twelve persons, who shall be examiners, and who are "to examine all apothecaries, and assis- "tants to apothecaries, throughout *England* and "*Wales*, and to grant or refuse such certificate as "hereinafter mentioned." The examiners shall appoint a chairman; but, before they act, they must take an oath or affirmation to the honest discharge of their duties. They are to hold their appointment for one year only, but are eligible to be re-appointed.

It is enacted, "That from and after the first day "of August, one thousand eight hundred and "fifteen, it shall not be lawful for any person or "persons (except persons already in practice as "such) to practise as an apothecary in any part of "England or Wales, unless he or they shall have "been examined by the said court of examiners, "or the major part of them, and have received a "certificate of his or their being duly qualified to "practise as such from the said court of examiners, "or the major part of them as aforesaid, who "are hereby authorized and required to ex- "amine all person and persons applying to them, "for the purpose of ascertaining the skill and

"abilities of such person or persons in the science "and practice of medicine, and his or their fitness "and qualification to practise as an apothecary; "and the said court of examiners, or the major "part of them, are hereby empowered either to re- "ject such person or persons, or to grant a certi- "ficate of such examination, and of his or their "qualification to practise as an apothecary as afore- "said: Provided always, that no person shall be "admitted to such examination until he shall have "attained the full age of twenty-one years."

Before any one can be admitted to an examination, he must produce proof of having served an apprenticeship of five years to an apothecary, as well as testimonials to his having received sufficient medical education, and of being of good moral conduct. Every candidate for a certificate for London practice, or to practise within ten miles of the City, is to pay ten guineas; and for a country certificate, six guineas. Any person who was not *bonâ fide* in practice prior to 1st August, 1815, shall forfeit £20 for every offence if he practises as an apothecary without possessing the company's certificate; nor can any one, who is not so qualified, recover at law any debt due to him as an apothecary.

Excepting persons acting as assistants to apothecaries at the time the Act came into operation, and excepting those who have served an apprenticeship of five years to an apothecary, every one renders himself liable to a penalty of £5 for every offence of acting as an assistant to any apothecary, unless he shall have been examined by persons appointed by the master and wardens of the company. The fee to be paid by an assistant for his certificate of competency is £2 2s.

All penalties inflicted under this Act, are re-

coverable by action or suit at law if above £5; but if under that sum, they may be recovered by distress and sale of goods, by warrant under the hand and seal of a magistrate.

The Act is not to prejudice, or to interfere with any of the rights or privileges of the two Universities of Oxford and Cambridge; or with those of the Colleges of Physicians and Surgeons of London; or with the trade or business of the chemists and druggists, for the last mentioned are guaranteed all the privileges which they possessed or exercised before the passing of it.

Such are the chief provisions of the Act of 55 George III., commonly called "the Apothecaries' "Act of 1815." The remaining clauses of the statute relate principally to the machinery necessary for carrying it into operation, and cannot be of much interest to the medical reader. It confers no privileges upon those who have been examined under it, beyond the right to *practise* as apothecaries. It does not make them members of the Apothecaries' Company; nor does it exonerate them in any way from serving on juries, or from serving the office of constable, overseer, or from any other parochial duties. They were as much liable to all these duties as any of the other parishioners, until the Act of 6 Geo. IV. was passed, which contains a special clause of exemption in favour of "all "members and licentiates of the Royal College of "Physicians of London, actually practising; all "surgeons being members of one of the Royal "Colleges of Surgeons in London, Edinburgh, or "Dublin, and actually practising; all apothecaries "certified by the court of examiners of the Apothe-"caries' Company, and actually practising." Of course, every person who does not derive his exemption from one of these five licensing bodies, is

still liable to serve parochial offices, like any other parishioner.

The Apothecaries' Company deserve great credit for the manner in which they have executed the duties confided to them by this Act. They at first sketched out a very moderate *curriculum* of medical education; and have gradually extended it, as means arose for enabling students to obtain the requisite knowledge. It is at present sufficiently ample so far as the medico-pharmaceutical branch of the profession is concerned. But the law itself is faulty in principle, and has always been regarded with great dislike by the profession. It is true that some of those who were formerly in the habit of turning it into ridicule, have taken a great liking to it within the last few months; but such things will always happen under a system of free discussion, and may be considered as having become legitimatized by custom. Nevertheless, the law remains still what it always has been since 1815, and the same evils which attached to it at one time, are connected with it at the present period.

Owing to the Executive under the Act being essentially a trading body, the certificate of the company has never been looked upon with respect by general practitioners. They are obliged, in a measure, to procure it, but it always "went against "the grain" to do so; whereas the Diploma of the College of Surgeons, (although not in any way requisite by law to enable one to practise), has been sought after with great avidity, and has been always looked upon as an honourable Degree, both by the profession and by the public.

Under the enactment of this law, the pupil is placed upon a wrong career at his first start. Instead of being allowed to expand his mind by the

acquisition of classical and general knowledge until about 18 or 19 years of age, he is, from the age of 14 or 15, immured for five years behind the counter, to acquire a knowledge which he might obtain easily in six months, at a little later period, without any interference, at the same time, with his other professional studies. The loss, here, in valuable time, is incalculable, because the knowledge that would be acquired at this period is of that nature which would be seldom sought for in after years.

It is doubtful whether the protection held out by the statute has been of much service to practitioners in general. The object of those who procured the Act, was, clearly, to check the encroachment of the chemists and druggists. It has failed to do so; for, as I noticed before, that class has ever since been going on in a prosperous manner, although not protected in any way against the encroachment of the apothecaries, or the rest of the community. Against bone-setters, and other rural quacks and impudent pretenders, the law is, and has been, powerless. Although, in fact, they are numerous enough in every district, still it could not be proved to the satisfaction of a court of law, *in one case out of five hundred*, that they have been acting as "apothecaries," according to the meaning of the statute.

In the 5th year of George IV. (1825), a supplementary Act was passed, for the purpose of correcting some of the evils which arose from certain provisions in the law of 1815. Instead of punishing ignorance, and of expelling quacks from the profession, the Act of 1815 bore all its oppressive weight upon persons who were qualified in every way but in bearing the name of "apothecary." Its fangs laid hold of all members of the College

of Surgeons who were not actually practising as "apothecaries" before its passing; of all medical officers in the army, navy, and the East India Company's service, who, in the discharge of their duties abroad, could not, of course, be practising as "apothecaries" in any part of "*England* or *Wales*," when the Bill received the Royal assent. Also, young men who had been apprenticed to such members of the College of Surgeons as were not practising as apothecaries, or who had not been examined by the Apothecaries' Company, could not be admitted to an examination for the licence to practise as apothecaries.

The Act of 1825 (5 George IV.) qualifies as apothecaries all medical officers holding, or who shall hereafter hold, a commission or warrant in the navy, army, or the East India Company's service, and gives to their apprentices, as well as to the apprentices of members of the Colleges of Surgeons of London, Edinburgh, or Dublin, a claim to be examined for the licence to practise as apothecaries.

This Act, however, did not continue in operation for a longer period than *one year* and a few days. It is dated 6th July, 1825; and it expired 1st August, 1826. It relieved, permanently, those who were suffering at that time under the provisions of the statute of 1815, but, at its expiration, the law returned to its former state, and has continued in the same state ever since.

THE UNIVERSITY OF LONDON.

In November, 1836 (7 William IV.), a charter was granted for the establishment of an university in the metropolis, by the name of "The University "of London." The new institution is to consist of a Chancellor, a Vice-Chancellor, and so many fellows or members of the senate as the Crown may choose to appoint at any time. There are thirty-seven members of the senate, including the Chancellor and the Vice-Chancellor, nominated in the charter. The senate has the power of making by-laws, subject to the approval of the Secretary of State, for the regulation of the university; and to have a common seal of the Corporation. It has the right of appointment of examiners in arts, laws, and medicine, either from amongst its own members or from amongst the public at large.

"The said Chancellor, Vice-Chancellor, and "Fellows, shall have power, after examination, to "confer the several Degrees of Bachelor of Arts, "Master of Arts, Bachelor of Laws, Doctor of "Laws, Bachelor of Medicine, Doctor of Medicine; "and to examine for medical degrees in the four "branches of medicine, surgery, midwifery, and "pharmacy," &c.

This university has no power of conferring any other privileges upon its graduates, than the titles of its degrees. It gives them no licence to practise medicine in any department; nor does it exonerate them from serving on juries; nor from being ap-

pointed to the offices of constable, overseer, &c.; nor from being called upon to perform any other parochial duties, like the rest of the parishioners.

APPENDIX.

AN ANALYSIS

OF

SIR JAMES GRAHAM'S

"BILL FOR THE BETTER REGULATION OF MEDICAL PRACTICE THROUGHOUT THE UNITED KINGDOM."

The "Bill for the better regulation of medical practice," brought into the House of Commons by Sir James Graham and Mr. Manners Sutton, on the 7th August last, and ordered by the House to be printed, has created very considerable stir amongst the members of the medical profession. It must be confessed that the measure has not been received, *generally*, in the spirit which might have been expected from a class consisting of men so well informed as practitioners of medicine usually are. They seem to have been struck with such terror at the idea of the repeal of the Apothecaries' Act of 1815, without finding, as a substitute, any protecting provision in the new bill against the intrusion of unlicensed practitioners, as to be deprived of their accustomed habits of calm thinking. This has induced them to denounce the whole measure, without, as appears to me, having taken either the time or trouble to inquire how far it really is calculated to affect the interests of the profession.

Having given an "Exposition" of those laws which Sir James Graham's measure proposes to repeal, I will now proceed to analyse the Bill in question. I do this in the full confidence, that, when the present momentary agitation shall have subsided, the measure will receive the full and calm consideration of medical men before the accession of the next Session of Parliament.

The subject may be treated in two divisions: first, the enactments proposed by the Bill; second, the omission of certain other enactments, which are, by many, considered essential to the perfection of any measure for the regulation of the practice of medicine.

The first clause of the Bill repeals all Acts of Parliament relating to the practice of medicine, or so much of any Act or Charter as prohibits any person from practising physic or surgery without licence, from the 3rd Henry VIII., down to the present time. There is one Act prior to the 3rd Henry VIII., namely, that of the 9th Henry V.,

which is not mentioned in the clause. Also, the Act of 10 George I. expired in 1730. This sweeping repeal clears the ground for the erection of an entirely new fabric.

It will be observed that the original Act (14 and 15 Henry VIII.) relating to the College of Physicians of London, is proposed to be entirely repealed by the new Bill. That Act makes the college charter, granted four years previously, a part of the law itself: in other words, the Act recites the charter at length, and confirms all its provisions. The question is, then (to be determined by the *lawyers), whether, by repealing the Act, the College of Physicians will not be totally annulled?* Or, on the contrary, whether the repeal of the Act would merely set the charter at liberty, as it was previously to the passing of that Act? Should the former view of the case be taken, a new charter must be granted to the college simultaneously with the passing of the new Bill, otherwise that institution will become defunct. Indeed, the original charter, even if it survived the repeal of the 14 and 15 Henry VIII., would be unfit for the government of a College of Physicians of the present day.

The second clause of the Bill proposes the establishment of a "Council of Health and Medical Education." This council is to consist of a Secretary of State; five Regius Professors, to represent the Universities of Oxford, Cambridge, Dublin, Edinburgh, and Glasgow respectively; six representatives of the Colleges of Physicians and Surgeons of England, Ireland, and Scotland respectively, elected by the colleges; and six persons nominated by the Crown, making in all *eighteen* members.

Her Majesty, with the advice of her Privy Council, is to appoint *all* the members of the first council, with the exception of the Regius Professors of the five Universities mentioned, who are to be members *ex officio*. It might be asked, why the *colleges* should not be allowed to send their own representatives to the council at its formation, as well as afterwards? The answer to such a question would perhaps be, that the colleges cannot possess by-laws, sanctioned by the "Council "of Health," for the purpose of pointing out *how* their representatives are to be elected, until that council itself is in being.

The tenure of office of the six members appointed by the Crown, is during Her Majesty's pleasure; that of the Regius Professors, is during the time of their holding that office; and with regard to the representatives of the Colleges of Physicians and Surgeons, "at the "end of the *third* and each of the *two* next following years after the "first constitution of the said council, *one* physician and *one* surgeon "of those first appointed on behalf of the said several colleges, shall "go out of office in such order as her Majesty, with the advice of "her Privy Council, shall direct." In case of a vacancy, the several colleges are to choose other members, subject to Her Majesty's approval; "and every member so chosen shall be entitled to be a "member of the said council for *three* years, and shall then go out "of office, but may forthwith be re-chosen, subject to Her Majesty's "approval: Provided always that no President, Vice-President, or "Examiner of any of the said colleges, shall be qualified to be so "appointed."

A difference of opinion may arise respecting the composition of the "council." It has been urged, that the superintending council

ought to be elected by the members of the profession at large, or, as the expression has been, that "the profession ought to be allowed to "govern itself."

Now, in determining this point, we ought to take into consideration the object of the council, and see what analogy there may be traced between it and any part of our national representative system.

It appears from the Bill, that the main object of the council is to compel the different colleges to do their duty; in other words, to see that the education, the examination, and the fees, required by the different colleges, shall be *uniform*, as far as uniformity can be carried into effect. "And the said council shall endeavour to procure, as "far as is practicable and convenient, that the qualifications and "fees for the said testimonials shall be *uniform*, according to the "nature thereof, throughout the said United Kingdom." From this, it follows that the council is intended to be more of an *executive* than of a *legislative* character; and, from analogy, it may be compared more to the *ministerial* than to the legislative department of the State.

Now, the elective principle may shine very well on paper, or in theory, but experience does not prove it to be always the soundest in practice. Our Ministers of State are not elected, nor are our Judges elected, but selected. In almost all instances where men of practical experience are required to form a committee, the members of that committee are actually selected, not elected. Besides the unwieldiness of the machinery—the trouble of collecting together 20,000 or more for the election of the council—it is a matter of great doubt whether a body so elected would be either an efficient or a desirable one. The more noisy and agitating portion of the profession would, in all probability, be elected in preference to the more diffident and retired; and experience sufficiently proves that the former are, as a general rule, the worst class we could have to form a committee or council for practical purposes. As the council under the new Bill is intended to be of an executive nature, its composition ought to be select: it ought to consist of persons well known to possess practical experience in matters likely to be submitted to them.

Admitting that the elective machinery might work well in the interior economy of the different *colleges*, it does not follow that it would answer the purpose equally well in its application to a *superintending Council* of Education. The principle may apply to the colleges, because they, generally, possess certain property, which belongs, or is supposed to belong, to the members in common; so that, according to the principle of representation, they ought all to have a voice, indirectly, in the management of the corporation; whereas the council, under Sir James Graham's Bill, is not intended to hold any property, but is to be paid (if paid at all) by the Lords of the Treasury, who are, of course, answerable to *Parliament* for their acts.

It is a legitimate question for consideration, whether the influence of Government may not be too great in the construction of the council. It might be urged, perhaps, that the universities already mentioned ought to be allowed to send representatives of their own choice, who should go out of office in a similar rotation to those of the Colleges of Physicians and Surgeons, instead of having their

Regius Professors called into the council *ex officio*. In a practical point of view, it is probable that this alteration would make no difference in the composition of the council, because the probability is that the Regius Professor would be the person selected by each university.

Fault has also been found with the power given to the Crown of directly nominating six persons as members of the council (independently of the Secretary of State, who is to be the President, and is to have a casting vote in case of an equality of votes). It is to be presumed, although not mentioned in the Bill, that these six persons are to consist of medical men. Whether *six* be the proper number, or not, may be a matter of dispute, but it cannot be denied, when the object of the establishment of such a council is considered, that Government ought to have an influence of some strength in it. Without such an influence, it never can have that weight and importance with the universities and colleges which an executive body *ought* to possess, in order to make it *respected* by them and *by the profession at large*.

Another subject has been urged, in connection with Medical Reform, namely, that there should be a superintending council in each of the three divisions of the United Kingdom. Such a proposition may appear specious at first view, but, if duly considered, it will be found calculated merely to render the machinery more complex.

If it be an object to obtain something approaching to *uniformity* in the qualification of medical men, there must be some *head*, or connecting link, to bring all the colleges into union. That head must have some control over the colleges, otherwise they would each follow their own courses, as they do at present: at any rate, supposing even that there existed separate controlling councils in the three divisions of the kingdom, still the councils of the different divisions might fail to agree in laying down the amount of qualification to be required for examination. If it be said that such three councils might have the power of delegating a certain number of their members to form a central committee, for the purpose of producing uniformity between the colleges of England, Ireland, and Scotland, the reply is, that the council proposed by Sir James Graham's Bill accomplishes that object in a more simple way—with less complex machinery. It must be borne in mind that the council is not intended to be the *examining* body. If it were so, then it would be essential, in order to save expense and trouble to students, to have one each in Ireland and Scotland, as well as in England; but as the functions of the council under the new Bill will consist in registering the acts of the different colleges, and in seeing that each college does its duty, the business is materially simplified by having only one superintending body, instead of three; because a Secretary is to be appointed in each division, for the purpose of making returns from the different colleges within his district.

Taking, then, an impartial view of the nature and objects of the "Council of Health and Medical Education," we cannot find much to disapprove in it. Like all schemes of human invention, it may not be perfect, but it is calculated, as well as any other that could be contrived, to answer the purpose for which it is intended.

The next point which we shall consider in the Bill, is that relating

to the registration of qualified persons. It may be noticed that the name of "apothecary" is to be abolished for ever. The classes will consist of "Licentiates in Medicine and Surgery," of "Surgeons," and of "Physicians." These are to be registered, in their respective classes, and their names are to be published annually, in alphabetical order. *A broad line will be thus drawn between the qualified and the unqualified.* But before any person can be registered as a "Licentiate," he must have attained the age of *twenty-one* years, and have been examined by the Colleges of Physicians (assisted in England by the court of the Apothecaries' Company) and Surgeons of England, Scotland, or Ireland; and must have received certificates or Letters Testimonial of competency from these colleges. Before any one can be registered as a "surgeon," he must be *twenty-five* years of age; must have applied himself for *five* years, at least, to *surgical* studies, and must produce Letters Testimonial of examination and approval from one of the Colleges of Surgeons in the United Kingdom. A "physician" must be *twenty-six* years of age; must be a graduate of some university in the United Kingdom; or of a foreign one, under certain conditions; must have applied himself to *medical* studies for at least *five* years; and must produce Letters Testimonial of having been examined and approved by one of the Colleges of Physicians of England, Scotland, or Ireland.

It will be seen that, under the proposed Bill, all physicians and surgeons must belong to their respective colleges, instead of being scattered astray, as they are at present, without having any common tie. The College of Physicians of England gives up its right to grant Diplomas to persons between twenty-six and forty years of age, who have not previously graduated elsewhere; but it retains its privilege of doing so to practitioners who have arrived at the age of forty. The college will not only be no loser, but will be a gainer, by the Bill, inasmuch as no physician will be allowed to practise in England without becoming a member of it. This will render it both powerful and respected. The same remark will apply to the College of Surgeons. Nor will the Apothecaries' Company be any great loser; because every licentiate in medicine must still undergo an examination before it, either separately, or in conjunction with the College of Physicians; and in all probability its fees will be about the same as they are now.

There is another most admirable provision in the Bill: any person who possesses a double qualification may claim to be registered in the double capacity of physician and surgeon.

The only remark which I shall offer upon the foregoing excellent provisions, is, that the age of *twenty-one* years, at which a candidate will be allowed to be registered as a "Licentiate," is too premature. It is true that the Apothecaries' Hall, and also the College of Surgeons, grant their licences at present to candidates of that age. The college, some years back, took a step in the wrong direction in that respect: the age it required used to be twenty-two. As a general rule, a young man of twenty-one years of age is deficient in the experience and judgment requisite for a medical practitioner. Moreover, according to another clause (21) of the Bill, the degree of Bachelor of Medicine cannot be granted before the student shall have arrived at *twenty-two* years of age; and he must then undergo the same

examination for the Licentiateship as if he had studied at any other school than an university. If the school of an university, or recognized by an university, be an efficient one, there appears to be no reason why the students of such an institution should be in a worse position than those of the other medical schools. According to the proposed provision, there would be a disparity of a year between them.

As so much of the Apothecaries' Act of 1815 as relates to medical education, is repealed by the proposed Bill, the apprenticeship system will, of course, be abolished. That system has, very justly, been considered a great grievance in connection with the present law, and has been a great obstruction to the acquirement of a classical education by young men intended for the profession.

We next come to a most important clause in the Bill (18). "And "be it enacted, that every person registered after examination as a "physician or surgeon under this Act, shall be admitted as an "associate of the Royal College of Physicians, or as a fellow of the "Royal College of Surgeons from which he shall have received his "Letters Testimonial as physician or surgeon, or if he shall have "received the said Testimonials from the Royal College of Physicians "and Surgeons of Glasgow, then as a fellow of the last-mentioned "Royal College; and every such physician and surgeon who shall "afterwards remove from that part of the United Kingdom in which "he obtained his Letters Testimonial, shall be required, if he shall "practise as a physician or surgeon in any other part of the said "United Kingdom, to enrol himself as an associate of the Royal "College of Physicians, or as a fellow of the Royal College of Sur-"geons, of that part of the United Kingdom to which he shall so "remove, for the purpose of practising there, according to the "nature of his Testimonials, and in each case shall be entitled to "be so admitted without further examination, and on payment of "the like fees of admission, and on complying with the same con-"ditions as are required of other persons who have passed their "examinations for the purpose of being admitted associates or "fellows of the said colleges respectively."

It is evident that the above clause will supersede as much of the charter lately granted to the College of Surgeons as relates to the appointment of *fellows*. Under the new Bill, every person who now holds, or who shall hereafter obtain, the Diploma of the college, will become a *fellow* of it as soon as his name shall have been entered on the register of the council. All persons now practising will be placed upon the same footing, under the 28th clause, as those who may hereafter enter the profession under the provisions of the Bill. This fact proves that Sir James Graham has not overlooked the injustice inflicted upon the members of the College of Surgeons by the new charter, which separates into two grades or classes those who have undergone the same education and the same examination.

But why should the Bill propose to perpetuate the same evil in connection with the College of Physicians which it removes from the College of Surgeons? What possible benefit can result from dividing its members into *fellows* and *associates?* That there is at present a distinction of grades, is no reason why it should continue under an altered law. It may have been useful and necessary in times past,

and tolerated down to the present day; but as reform is now about to take place, that reform ought to be ample and efficient, so as to avoid all future ill-feeling. The affairs of the college will, doubtless, be managed by a council under the new dispensation. As the number of physicians is not likely ever to be very great in England, and as but few of the provincial physicians would take the trouble of attending the election for councillors, it is difficult to conceive the object of splitting the members into classes. It will only leave room for favouritism, or, at any rate, a suspicion of favouritism, and preference to particular schools. If the Diploma of the college be a test of qualification, it ought to be equally so to one member as to another.

Clause 19 enacts, "That the said several colleges shall, from time "to time, when required by the said council, prepare and lay before "the said council a scheme or schemes of the course of study and "particulars of the examination to be gone through by all persons "applying to such colleges respectively for Letters Testimonial as "physician, or surgeon, or licentiate, and of the fees to be taken "for examination and admittance into the several colleges respec-"tively; and the said council shall be empowered to make from time "to time such changes in any of the schemes so laid before them as "to the said council shall seem expedient; and the said council shall "endeavour to procure, as far as is practicable and convenient, that "the qualifications and fees for the said Testimonials shall be "uniform, according to the nature thereof throughout the said "United Kingdom."

Comments have been made upon this part of the Bill, with the view of making it appear, in the first place, that the proposed uniformity would destroy all competition between the different medical schools, so as to lead to idleness and neglect on the part of their professors; and, in the second place, that the clause would give the council the power to tyrannize over the colleges, and to make them succumb, in all their acts, to its whims and pleasure.

With regard to the first objection, which was urged sometime ago with its usual energy by an influential morning journal, it may be briefly observed, that it has nothing whatever to do with the matter. The Bill does not propose to interfere with the *medical schools*, any further than to require them to register the names of all the students, and to make a return of them to the council. The same thing, by the bye, they are already required to do, by the colleges. The schools may still be many, or few; and their professors may charge high fees, or low fees, according to the value at which they may estimate their own commodity. What the Bill proposes, is, to render the examinations and the fees uniform at the *different colleges*, so as to prevent their underselling one another in the grant of their Diplomas, or their inducing young men to resort to one college in preference to another, owing to the greater laxity in the examination at one college than at another. This has always been a great evil in connection with some of our universities and colleges. As a general rule, that which is cheap and easily acquired, is of an inferior quality. The object of the clause in the new measure appears to be, to put a stop to such inducements in the grant of Letters Testimonial.

Let us consider the second objection, namely, that the Bill gives

the council too great a control over the colleges. It is often assumed that when a certain power is given to a person, or to a body of persons, it *must necessarily* be used for *mischief*. It does not follow that such should be the case, especially in a civilized country, where the public acts of men, and bodies of men, are so freely canvassed by the press. Besides, the same supreme power which confers on the council the right of control over the colleges, would be able, at any time, to deprive it of that power in the event of its abusing it. The legislature can, any day, in case of need, undo that which it has done. But let us see what the power of the council amounts to. "That the said several colleges shall, from time to "time, when required by the said council, prepare and lay before "the said council a scheme or schemes of the course of study and "particulars of the examination to be gone through by all persons "applying to such colleges respectively for Letters Testimonial, as "physician, or surgeon, or licentiate, and the fees to be taken for "examination and admission into the said several colleges respec-"tively; and the said council shall be empowered to make from time "to time such changes in any of the schemes so laid before them as "to the said council shall seem expedient; and the said council "shall endeavour to procure, as far as is practicable and convenient, "that the qualifications and fees for the said Testimonials shall be "uniform, according to the nature thereof, throughout the said "United Kingdom."

It is evident, that, before the object of the *latter* part of the clause can be carried into effect, namely, to produce something like uniformity of examination and fees at the different colleges, the council *must* possess the power conferred on it by the *former* part of the clause. As the council will be bound by the Act of Parliament, it cannot tyrannize over one college more than over another: it can only require "that the qualification and fees shall be uniform." It is not assumed that the council will be so perfect in its character, knowledge, and judgment, as to be able to point out to the colleges the *very best* schemes of education which could be devised; but, certainly, it is difficult to imagine what *motive* it could have in oppressing *all* the colleges, so as to compel them, *all alike*, to act detrimentally as regards the profession or the community. And with regard to the restrictions on the by-laws of the colleges, it is a general, and almost an universal, rule, that the by-laws of a corporation shall not be acted upon unless they are sanctioned by the Crown, or by one of the Judges. The only difference under the present Bill will be, that the sanction or confirmation of such by-laws must be by the council—the body created for the very purpose of superintending such matters. Surely, there can be no valid objection to this part of the measure.

The 26th clause enacts that no persons not registered under the Act shall be eligible to any medical or surgical appointment whatever; whether to a hospital, prison, infirmary, dispensary, workhouse, &c.; or to the army, navy, or the East India Company's service; "and wherever by law it is provided that any act shall be "done by a physician or surgeon, or medical or surgical practitioner, "by whatever name or title he is called, such provision shall be "construed to mean a person qualified to be appointed to such

"medical or surgical office as aforesaid." And every person, not registered, who shall act or practise in any public office, "shall, for "every such offence, forfeit the sum of £20." (Clause 29.)

It has been asserted in some of the public journals, whether from ignorance, or design, that the law already precludes all but licensed practitioners from public medical and surgical appointments. It is true that no one is legally entitled to practise either privately or publicly as a physician in England (14 and 15 Henry VIII.) without a licence from the London College of Physicians, or from Oxford or Cambridge; and it is equally true that no one has a right (except those who were in practice before 1st August, 1815) to practise as an apothecary without a certificate from the Apothecaries' Company; but there is no Act which renders it illegal for a person to hold any appointment as a surgeon, except to prisons, under 4 George IV., cap. 64. The law with respect to physicians is constantly broken through in the provinces; and so is that respecting apothecaries at many infirmaries and dispensaries. As to surgeons, neither the law nor the practice is as stated. It is admitted that most of the hospitals, infirmaries, &c., require, by their *own rules*, that the surgeons shall be members of a college, but that is not universal: there is no illegality in their appointment, or in their holding their offices, when they are not members of a College of Surgeons. The same remark will apply to the army, navy, ordnance, &c. The regulations respecting the qualifications of medical officers are those of the respective departments: the *law* does not require that those officers shall be members of a College of Surgeons.

The 27th clause reserves the exemption of serving on juries, inquests, parochial offices, &c., to all registered practitioners; and "no person shall be entitled to such exemption on the ground of his "practising medicine or surgery, who is not so registered; nor "shall the certificate of any such unregistered person be received as "the certificate of a medical or surgical practitioner in any court of "law, or in any case in which by law the certificate of a medical or "surgical practitioner is required." At present, there is seldom any inquiry made whether the practitioner, whose certificate or evidence is taken on inquests and in courts of law, be qualified or not; and every person *pretending* to be a medical man is exempted from serving on juries, &c.

I have already offered an observation on the 28th clause, which not only reserves their present privileges to persons now legally practising, but which, moreover, gives every one who holds the Diploma of the College of Surgeons, the right to the *fellowship* on being registered. It may be expected that such a clause will be acceptable to the members of the college; and the clause must be insisted upon in Parliament, in spite of any attempts which the council of the college may make to get it altered.

The 29th clause, as already remarked, imposes a fine of £20 each time any person who is not qualified under the Bill, presumes to act in any medical or surgical office; and according to the 30th clause, "no person shall be entitled to recover any charge in a court "of law for any medical or surgical advice, attendance or operation, "or for any medicine prescribed or administered, unless he shall "prove upon the trial either that he is registered under this Act; *or*,

"that he was legally practising in the *capacity in which he claims* "such charge *before* the passing of this Act."

Now, the intention of the foregoing clause is good, but there is a gap in the latter part of it through which an unregistered person may escape. Supposing a person now "*legally* practising" should neglect to register within a year—the time allowed by the Bill for those residing in the United Kingdom—he might still go on "prac- "tising in the *same* capacity in which he claims such charge *before* "*the passing of this Act.*" The intention of that part of the clause is to enable practitioners to recover debts due to them, or incurred, *previous* to the expiration of the term for registration; but the wording of it does not strictly confine it to that meaning.

It may also be remarked that the wording of the whole clause is *negative.* It would be more satisfactory if another sentence were added to the end of it: thus; "but every person who shall prove "upon the trial that he is registered under this act," &c., "shall be "entitled to recover all reasonable charges in any court of law for "any medical or surgical advice, attendance or operation, or for any "medicines prescribed or administered," &c., "any law or custom "to the contrary notwithstanding."

The only remaining clause requiring particular notice is the 31st, which, in my opinion, is far more likely to protect the regular practitioner against the intrusion of unlicensed pretenders than any clause directly prohibitory would be. It enacts, "that every un- "registered person who shall wilfully and falsely *pretend* to be, *or* "*take or use any name or title implying* that he is registered under "this Act, shall be deemed guilty of a misdemeanor," &c., "and "being convicted thereof, shall be punished by fine or imprisonment, "or both, as the court before which he shall be convicted shall award."

The fees for registration are to be as follow:—Persons already in practice, registering as physicians or as surgeons, are to pay *two pounds each*; and those already in practice as apothecaries only, are to pay *five shillings* to be registered as "licentiates in medicine and "surgery";—persons to be admitted *after* the passing of the Bill, will have to pay *five pounds* to be registered as physicians, or as surgeons; and *two pounds* as licentiates in medicine and surgery. There will be no further payment after the first registration; but in order to secure his being retained on the register, every one must send his name and address to head-quarters in the month of January every year.

Such are the positive provisions of the Bill. It would be too much to say that the measure is perfect in all its details, but it evidently bears the stamp of very deep consideration. It does not tend materially to affect the interests of any of the corporate bodies which now have the privilege of granting Letters Testimonial, but it will compel them to require sufficient qualification from their candidates, and to submit these candidates to an efficient examination. Its principle is eminently calculated to exalt the character of the profession, and to render it really a profession, by the broad and conspicuous line which it proposes to draw between the qualified and the unqualified practitioner.

I will next proceed to the second part of the subject, namely, that

which proposes to repeal the Apothecaries' Act without substituting a clause against the practice of unlicensed persons. I may premise by observing, that the insertion or non-insertion of a prohibitory clause against quackery, need not militate against the provisions of the rest of the bill.

Let us first consider what the Apothecaries' Act (55 George III.) has done in the way of preventing quackery; and, in the second place, what probability there is that a prohibitory clause in the present Bill would afford any protection to licensed practitioners.

I will first call the attention of my brethren to a *fact*, namely, that, at present, any person, however ignorant, even who may not know the alphabet, may get the word "surgeon" engraved or painted on, or over, his door; may bleed; may set a limb, or pretend to do so; may prescribe and dispense medicine for the fever that may arise from any accident, or for any surgical disease whatever; may charge for doing so; may recover the amount in a court of law, as legally, to all intents and purposes, as any, the most eminent, surgeon may do. Now, under the proposed Bill, not only will such a person not be able to recover any charges in a court of law, but, moreover, any one pretending to be a surgeon, and who is not, is liable to fine and imprisonment. The clause states, "that every unregistered per-"son who shall wilfully and falsely pretend to be, or take or use any "name or title implying that he is registered under this Act, shall "be deemed guilty of a misdemeanor," &c. Of course, no one can be registered who is not a qualified practitioner. Is not this a step in the right direction?

It is true that the present Bill does not go so far as to attach a penalty to unlicensed persons who may hereafter choose to give advice and medicine, but they will not dare to call themselves physicians or surgeons, or licentiates; nor will they be eligible to any public appointments. Surely this is an improvement upon the present system.

The inconsistency attending the present laws, with regard to licensing practitioners, is well known. Not only is an English licentiate not entitled to practise in Scotland or Ireland, and *vice versa*, but the London licence of the English College of Physicians does not give its possessor the right to practise beyond the distance of seven miles round the metropolis; nor does the country licence, on the other hand, confer the right of prescribing in London, or within seven miles of the same. The great majority of the physicians to our provincial hospitals and infirmaries, as well as those who practise privately, are illegal practitioners. As the law stands, no person has a right to practise as a physician in England, unless he hold the licence of the College of Physicians of London, or a degree from Oxford or Cambridge. These inconsistencies will be entirely remedied under the present bill, without materially affecting the privileges of any of the bodies which now confer licences; and without interfering with the interests of the present race of practitioners. On the contrary, those who are now entitled by law to practise in any part of the United Kingdom, will, by registering their names, be entitled to practise in *every* part of it, without restraint.

Now, what has the Apothecaries' Act done towards the prevention of quackery and unlicensed practice? In speaking of the operation

of that Act, I do not intend in any way to cast blame upon the Apothecaries' Company. The faults are in the Act itself, and not in those who have been charged with its administration.

I am not acquainted with the exact number of prosecutions of unlicensed practitioners instituted under the Act, but I know that it has been very small. It is also well known that some of these, if not the majority of them, were against members of the College of Surgeons. Even for this I do not blame the company, because if informations were laid before them against such persons, they could not well avoid prosecuting. The Act has been in operation just nine-and-twenty years: about a dozen, perhaps, unlicensed practitioners have been prosecuted under it: quackery and unlicensed practice are as rife as ever, both in town and country: that is the true state of the case.

The Apothecaries' Act has been useful, certainly, in improving the education of the general practitioner. But so far as the prevention of quackery is concerned, if it were ever intended to interfere with quackery, it has proved a signal failure. The wording of the Act in relation to unqualified practitioners is stringent enough; how is it, then, that it has failed in accomplishing its object? How was it that the College of Physicians, for centuries, armed with the most stringent Acts of Parliament, entirely failed in accomplishing the same objects in the metropolis? The truth is, that the object cannot be accomplished by the power of an Act of Parliament. The history of centuries proves that to be the case.

But, allowing the Act of 1815 all the credit due to it, still there is an indisputable proof furnished by the list of the College of Surgeons, that the improvement which has taken place in medical education within the last twenty-nine years, has not been solely, or even *mainly*, caused by that Act. For some years after that period the list of members was *printed on a single sheet of paper:* it now forms a considerable sized volume. It has not been obligatory on students to pass the college: they might practise with equal legality without possessing its Diploma: yet they have considered it, as a general rule, an essential point to obtain it, although the qualification requisite for that purpose has, up to a late period, been much higher than that required for the certificate of the Apothecaries' Company. The fact is, that *times were beginning to change* about the period of which we are speaking: *science* in general, the medical branch among the rest, was about quickening its steps, so that a new and a higher tone was given to the views and feelings of its cultivators.

All the good points of the Apothecaries' Act are embraced in Sir James Graham's Bill. The rest of it has outlived its day. It has been useful in its time; but the same usefulness may be continued in a better, more simple, and by far more respectable way as regards the profession.

There are at present eighteen or nineteen bodies in the United Kingdom, which confer Letters Testimonial of some sort in medicine. The Colleges of Physicians and Surgeons of England are the only two that publish annual lists of all their members; so that it is now difficult to distinguish between the qualified and the unqualified. Although none but persons who hold English Diplomas or licences

are entitled by law to practise in England, still, those who have been able to show any proof of having undergone an examination have not often been molested. The consequence has hitherto been, that when a stranger has settled in a place, although suspected of being unqualified, still there is a delicacy in charging him with being so, because he may have undergone an examination before some one of these eighteen or nineteen licensing bodies. Under the proposed Bill, the names of all legally qualified persons will be annually published, so that there cannot then be any delicacy in denouncing those whose names are not on the register, as unlicensed pretenders. If, after that, the public choose still to employ such persons, surely let them do so.

In legislating for ourselves, we are bound to take into consideration the interests of others. It is evident that quackery has been legalized by the granting of patents for the sale of nostrums. There is a very large capital invested in such property in this country, and it is difficult to conceive how quackery can be eradicated while patent medicines are allowed to be sold. If we defer our Medical Reform until the time arrive when secret nostrums are prohibited from being sold, we shall certainly wait until the day of doom so far as we are concerned.

There is also another class to be considered, who have maintained a certain privilege for a considerable number of years, namely, the retail chemists and druggists. These persons claim the right of giving "advice over the counter," and have exercised it in spite of the Apothecaries' Act. The present Bill will neither increase nor diminish their right in that respect; but a prohibitory clause, if acted upon, would affect their interests in a way to render it almost impossible for them to carry on their trade. This class, therefore—a powerful one—would naturally and justly raise a cry against a Bill containing such a clause.

But the worst thing of all would be, and the most detrimental to the interest of the profession, that the *public* generally would cry out tyranny against us, if we attempted to enforce the provision of a prohibitory clause. Such a clause, unless rigidly put into execution, would be worse than useless, because the profession would have all the discredit of it, without any benefit from it. The public are jealous of having their ancient privilege of being cheated touched. They may be considered foolish for being so, but the remark is not the less true for that. They think that they "have a right to do as "they like with their own" health.

Let us carry out the principle of prohibition to its full extent, and see what would be the result. It may be stated generally, that if it be wrong, on *public grounds*, to permit unlicensed persons to practise, it is equally so whether the practice be for *lucre*, or not. Even were this principle denied, it is certain that it would be extremely difficult to prove in a court of law whether there was, or was not, lucre in the case. The payment or advantage derivable from the practice might be indirect or meditate, and of such a nature as to defy all legal proof.

Now, let us ask, in the first place, would you pass an Act to make it illegal for an unlicensed person to prescribe for *himself?* It is true that the law makes suicide a felony, but I doubt whether

the public would submit to have their whims so far curtailed as to be prevented from being their own doctors if they like. Would you debar the mother (who is often a great doctress in her own estimation) from prescribing for her child? Would you render the possession of a family medicine chest illegal? Would you stop the hands of the schoolmaster, who lives seven or eight miles from any village doctor, from serving his pupil with a dose of jalap, or from giving him a taste of a "black dose," in case of need? Who is to prescribe for the crew of a ship whose hands are too few to bear the expense of a regular surgeon? Is not the master of the vessel *morally* bound to do his best under such circumstances.

But let us come to cases where lucre *may* be of a nature capable of proof. A poor woman whose whole amount of ready money does not exceed sixpence or a shilling, goes to the chemist for a powder or two for her child, who is ill. She states the nature of the case as well as she can, and the chemist is seldom so ignorant as not to know *something* of the properties of drugs. He gives her two or three powders for her sixpence. They act on the bowels, and the child gets well. Whether the child recovers owing to the effect of the *powders* or not, the poor woman consoles herself with the reflection that she did her best with her small means. Now, it cannot be expected that a licensed practitioner, whose education has necessarily been very expensive, could devote his time, and give his medicines, as a general rule, in such cases at so low a rate of remuneration.

That there are hundreds of cases of the above description in every town of any size, is well known. Will those who argue in favour of a protecting clause in the Medical Bill, guarantee that such persons shall be attended gratis, or at the rate the chemist and druggist is paid? If not, what are to become of them? If they apply for an order to be attended by the Union doctor, they immediately become pauperised; besides that, they would often have to wait for many hours before any medicines could be procured. "A stitch in "time saves nine." Even in a pecuniary point of view, the class just described, which forms a large portion of the public, especially in towns, are an expense to the regular practitioner, and it is really to his interest that they should be able to procure medicines from the druggist in simple cases of illness. Where is the line to be drawn between the poor and the rich?

Now, it sometimes happens that the young *gentleman*, and occasionally the old, feels the claret of the previous evening sit rather uneasy on his stomach, and he turns into Mr. H.'s shop. Mr. H. recommends him a glass of his prime bitters, or a dose of his stomachic pills. The patient feels better, pays his shilling, and walks off. Can this kind of practice be prevented by an Act of Parliament? If so, why does not the Apothecaries' Act, which is sufficiently stringent in its wording, prevent it now?

The chemist and druggist may ask what protection *he* has against the multitudes of *licensed* practitioners who stick red and blue bottles in their windows, and retail drugs, in almost every town in the kingdom. It will not do to say that a law ought to be made against such a practice also, because the habits and customs of society cannot be changed at once by an Act of Parliament. If society should

ever become ripe for such changes, a supplementary Act might then be applied for.

Both rich and poor swarm after homœopathists, hydropathists, mesmerists, and all descriptions of quacks. The question is not whether they act wisely in doing so, but whether you can do any good by attempting to prevent them by the enforcement of a law; whether, by endeavouring to enforce the provisions of such a law, we should not place ourselves in a much worse position, by having the public cry raised against us.

It must also be taken into consideration, that juries would not convict under an obnoxious law, however clear the evidence; so that it would soon become a dead letter, as the Apothecaries' Act did so far as the prevention of quackery is concerned.

In truth, notwithstanding the great improvements of modern times, medicine is still a "conjectural art" to a great extent. If a patient, whether poor or rich, has given eminent, regular, and licensed practitioners, every opportunity of doing him good, and they fail to do so, it would be hard to deprive him of the hope and consolation of sniffing the millionth part of a grain of ipecacuanha into his nose, or to twist a wet sheet round his body, or to have a number of unmeaning figures cut in the air before his face by the "passes" of the mesmeriser's hands.

We even find not a few men connected with our profession, who, at a former period, bore some reputation, take up with these crotchets. Whether such men, or such professors in general, are knaves, or fools, or both, or neither, is not the question at present; they, at any rate, prove that the non-medical public are not the only promoters and encouragers of quackery.

It has been argued that lawyers and clergymen are protected against the intrusion of unlicensed persons into their respective professions—that no person not qualified is allowed to practise in courts of law, and that no one dare mount the pulpit of the regular clergyman. Let us see how far the analogy will stand inquiry.

It is true that no person but an educated lawyer can practise in a law court, because that court is the place for the recognition of his qualification. So, under the proposed Medical Bill, no person not registered will be recognized as a "medical practitioner," nor received as such; nay, any person who may dare hold any public appointment will be liable to a fine. But the analogy would be the following:—suppose that two neighbours were to quarrel—that one, for instance, committed some trespass upon the estate of the other—are they bound to go to a *lawyer* to have their differences settled? Are they not at liberty to refer their case to a mutual friend who has no legal qualification? What law is there to prevent any person from writing a promissory note; or from drawing out a lease; or from making a Will; or from giving any sort of legal advice he likes, without being a member of the legal profession? Such is the fair analogy to be drawn between unlicensed practice in law and in medicine. Next with regard to the church.

It cannot be denied that the clergyman of the parish has an undoubted right to occupy his own pulpit, and to keep off all persons who might attempt to intrude; but the same might be said of the medical professor's chair. Before any analogy can be drawn between unlicensed preaching and unlicensed practice in medicine, it must be

shown that no one but an educated clergyman, licensed by the bishop of his diocese, *is allowed to preach at all, in any part of the parish*—that no person but the clergyman dares offer any religious instruction or advice to any of the parishioners. If the facts were so, instead of being quite the reverse, it might then be said that the educated and licensed clergyman was protected in his calling against the intermeddling of ignorant pretenders; but when we know very well that any shoemaker or chimney-sweeper may hold forth with perfect impunity, and set forward publicly his own religious doctrines against, and in the very teeth of, those of the regular clergyman, it is not correct to say that the latter is protected in his profession against the intrusion of religious charlatans.

Looking calmly and impartially, therefore, upon the comparison in the amount of protection offered to medical practitioners by the proposed Bill, and that at present enjoyed by the members of the law and of the church, it evidently appears that the former would have the advantage over the latter professions.

In Prussia, and a few other States, whose governments are *absolute;* whose inhabitants are all under a system of *surveillance;* whose limits are confined to a small compass, and where no medical man, however well qualified, dare to commence practice until a vacancy occurs by the death, removal, or retirement of some older practitioner, the prohibitory plan may answer to a certain degree. Still, it is said that even there its success is only partial in suppressing quackery. But, in an Empire of almost boundless extent, and whose greatest glory consists in the freedom of its institutions, such restrictions would not be suitable, either to the principles of a confiding Government, or to the habits and feelings of a free and loyal people.

The provisions of the new Bill appear to me calculated to do much more good towards the discouragement of illegal practice, than a direct prohibitory clause would be. The fact that no person will be qualified to hold any public appointment without being registered (which, of course, is the proof of his qualification); that his certificates or evidence in courts of law, whether before the judge, the magistrate, or the coroner, shall not be received as those of a medical practitioner; that no person not registered shall be entitled to recover at law any charges for attendance or medicine, either in medical or surgical cases; that any person pretending, by word or deed, to be a qualified practitioner, without being so, is liable to be indicted for misdemeanor—all these form as strong a defence against the intrusion of interlopers into our profession, as the public are at present ready to concede to us.

I conclude by repeating, that the insertion or non-insertion of a prohibitory clause need not invalidate the rest of the Bill. I have stated the reasons which occurred to me against the expediency of such a provision; others may have stronger reasons to adduce in its favour; but the profession may rest assured of one thing, namely, if they reject the present measure, it will be many a day before they have the like of it offered to them again.

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